The Solicitors' Journal

Vol. 105 No. 6 [pp. 115–136] FEBRUARY 10, 1961 [One shilling and ninepence

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THE
SOLICITORS' JOURNAL

VOLUME 105
NUMBER 6

CURRENT TOPICS

A Ministry of the Interior

THE Council of The Law Society have turned their revolutionary zeal to the reform of the administration of the police. In their evidence to the Royal Commission they have proposed the abolition of watch committees and standing joint committees and with them the last vestiges of local control; but they suggest a Commission as a centralised police authority for which the Home Secretary would be responsible. The control and administration of each police force would be vested in its chief officers with ultimate responsibility to, and generally under the direction of, the Commission. It is true that there are some disadvantages in having local forces, particularly if they are very small, but the Council's recommendations amount to burning down the barn to roast the pig. All the ills to which the Council rightly draw attention can be cured without the ultimate remedy of nationalisation and the administrative hierarchy and masses of paper which it would involve. Quite apart from this, there are safeguards in dispersing the police power which do not necessarily benefit the criminal. When the Council turn to purely legal matters they are on firmer ground, although in our opinion many of the suggestions they make are based on difficulties which are more theoretical than real. We propose to examine the Council's memorandum in more detail in an early issue.

In the Pipeline

VARIOUS Bills of particular interest to lawyers have now been published. The Motor Vehicles (Passenger Insurance) Bill aims to ensure that passengers in or on motor vehicles are able to obtain compensation when they are injured in motor accidents due to the fault of the owner or driver of the vehicle in which they are travelling. At present, of course, compulsory insurance does not extend to passengers unless they are carried for hire or reward or under a contract of service. The Restriction of Offensive Weapons Act, 1959 (Amendment) Bill is designed to make an offence of exposure of dangerous weapons for sale in addition to the existing offence of offering them for sale or hire. The Criminal Justice Act, 1948 (Amendment) Bill is designed to widen the powers of courts so that convicted criminals may be ordered to pay compensation to their victims in all suitable cases and not only in cases where a probation order or an order for conditional discharge is made. The Private Street Works Bill seeks to amend the liability of frontagers in respect of street works in part only of a private street. The Medical Termination of Pregnancy Bill is a humane measure putting beyond doubt

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the legality of a registered medical practitioner's terminating pregnancy in good faith upon certain conditions, including the obtaining of a concurring second medical opinion. One not yet in the pipeline but which we hope will be before long is a measure to amend the Malicious Damage Act, 1861, in respect of the position as to killing a stray dog as shown last week in the case of *Workman* v. *Cowper*, which we report this week on p. 130.

Caveat Drafter

INELEGANTLY drawn. Thus was the settlement in question described by both LORD EVERSHED, M.R., and HARMAN, L.J., in *Inland Revenue Commissioners* v. *Bernstein* (noted at p. 118 of this issue), where the Court of Appeal agreed with Danckwerts, J., that a direction to accumulate may exclude not only the statutory power of maintenance but also that of advancement. The 1925 property legislation contains many provisions enabling us to shorten our drafting by implication. Here, the tables were turned; a statutory implication was impliedly excluded. Further, it is clear from the judgments that this exclusion is no rule of law, but rather a result of a proper construction of the particular settlement; Lord Evershed referred to a clause directing accumulation contained in a well-known book of precedents which would cause no such exclusion. The draftsman's goal of certainty of intention and effect cannot, we think, be achieved by the implied at the expense of the express. The primary inference from *Inland Revenue Commissioners* v. *Bernstein* is that, whenever it is so intended, the statutory powers of advancement and maintenance should be incorporated by express reference. Two other timely warnings for draftsmen also emerge from the decision. First, there is a reminder that for tax reasons the payment of capital or income to the settlor or his wife should be prohibited. Secondly, it was suggested though not decided that inability to obtain the consent of *unborn* persons, who if in existence would have a prior interest, will prevent exercise of the statutory power of advancement. Appreciating that one condition precedent to exercise of the power needs scrutiny, it follows that *all* the statutory terms need careful consideration. Otherwise, the intentions of the settlor may fail to prevail over Parliament's ideas of convenience. The moral for draftsmen to be deduced from *Inland Revenue Commissioners* v. *Bernstein* is wider than its particular issue: never assume without survey that *any* statutory short cut is satisfactory.

Diplomatic Immunity Clarified

SOME months ago, following a case at the London Sessions, we asked whether a member of a High Commissioner's staff is himself able to waive such diplomatic immunity as he may enjoy (see "Waiver of Diplomatic Immunity": 104 SOL. J. 730). This important point has now been clarified by the Court of Criminal Appeal (*R.* v. *Madan* (1961), *The Times*, 31st January). It will be remembered that a clerk in the office of the Indian High Commissioner was sentenced to four months' imprisonment for obtaining a season ticket from the London Transport Executive by false pretences and attempting to obtain money by false pretences. At the trial the court had been aware that the clerk was probably entitled to diplomatic immunity, but the deputy chairman was reported to have said: "As far as diplomatic immunity is concerned it is a bit late to claim it. He must have waived it." The man was given leave to appeal because he appeared to be entitled to diplomatic immunity at all times, being on the list kept by the Secretary of State under s. 1 (4) of the Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act, 1952, and his appeal was successful. LORD PARKER, C.J., affirmed that it was not for a person entitled to diplomatic immunity to claim it in the courts and their lordships thought that it was clear that proceedings brought against such a person were proceedings without jurisdiction unless and until there was a waiver which would give the court jurisdiction. Their lordships added that "the waiver must be a waiver by a person with full knowledge of his rights and by or on behalf of the chief representative of the State in question; it was not the person entitled to the privilege who might waive it unless he did so as agent of the head of the State—it had to be the waiver of the Sovereign" (per Lord Parker, C.J.). The Court of Criminal Appeal believed that this was clear from s. 1 (5) of the 1952 Act and, quite apart from that subsection, the law had always been that the privilege could only be waived by an accredited diplomatic agent. Their lordships left open the question as to the possibility of retrospective waiver of immunity.

Consumers Hit Back

WE are delighted to hear that the purchaser of a motor car has made amendments to the warranty which the manufacturers wanted to give her, which excluded liability for injury arising from defects and which in general put the purchaser in an unenviable position in law. We are even more delighted to hear that the manufacturers accepted the amendments. Let us replenish our stocks of red, green, purple and yellow inks. Only a few days previously the Government accepted in principle the Consumer Protection Bill, which is designed to give power to make regulations covering certain types of goods which may prevent the risk of death or personal injury. Too much detailed law on this subject is undesirable but we have neglected for too long the problems posed by "contracts of adhesion."

The Inland Revenue

THE "103rd Report of the Commissioners of Her Majesty's Inland Revenue for the year ended 31st March, 1960" (to quote the full title of Cmnd. 1258, H.M.S.O., 8s. 6d.), records once again details of duties and taxes as seen from the receiving end. In the fiscal year 1959–60 the yield from income tax amounted to over £2,216m. and surtax added a further £182m. Profits tax produced some £259m., estate duty £226m. and stamp duties £98m. The gross receipt of Inland Revenue duties, including arrears of previous years, amounted to £3,336m., repayments to £351m., leaving a net receipt of £2,984m. The amount of tax remitted or written off as irrecoverable in the accounting year 1959 was over £2½m., of which over £1½m. was in respect of income tax. Remissions "on grounds of equity" amounted to nearly £265,000, and "on grounds of poverty" to over £90,000; the bulk of the remainder were in respect of amounts insufficient to justify the cost of proceedings. Insolvency led the field for amounts irrecoverable with £1·4m. written off on this ground; composition settlements accounted for £206,000 and a somewhat intriguing item "Taxpayer gone abroad or untraceable, etc." for £403,000.

THE FUTURE OF LEGAL EDUCATION

We have now had time to digest the proposed new scheme for the education and training of solicitors. We have seen many criticisms of it, but in our opinion no one has yet succeeded in shaking the foundation or more than a few minor parts of the structure.

The strength of the Council's case is that there is no perfect solution which is practicable under present conditions. In a perfect world the potential solicitor would—

(1) Stay at school until he is eighteen, unflustered by the narrow and highly specialised qualifications which most universities demand.

(2) Go for three years to a university on a non-vocational course of study as recommended by Mr. Justice Felix Frankfurter in the following words: "No one can be a truly competent lawyer unless he is a cultivated man. If I were you, I would forget all about any technical preparation for the law. The best way to prepare for the law is to come to the study of the law as a well-read person. Thus alone can one acquire the capacity to use the English language on paper and in speech and with the habits of clear thinking which only a truly liberal education can give. No less important for a lawyer is the cultivation of the imaginative faculties by reading poetry, seeing great paintings, in the original or in easily available reproductions, and listening to great music. Stock your mind with the deposit of much good reading, and widen and deepen your feelings by experiencing vicariously as much as possible the wonderful mystery of the universe, and forget all about your future career."

(3) Take a course in economics for one year.

(4) Take a further compulsory course before articles for one year, at the end of which he would take Part I of the proposed new examination subject to the detailed modifications which we propose later.

(5) Enter into articles for 2½ years, at the end of which he would take Part II of the examination.

It follows that normally the young man or woman would be about twenty-six before he or she qualified. Although this is not as bad as the experience of Bohun, Q.C., who had to be supported by his father until he was thirty-seven, such a long course of study and training is impossible and so the task of the Council has been to decide which stages can be omitted and which telescoped.

Realities

The realities of our present situation are—

(1) Most parents are unable to support their sons and daughters while they are being trained, so that recruits must begin to earn money as soon as possible.

(2) Industry is willing to pay its recruits while they are being trained.

(3) Our profession is organised in a large number of small units, which makes it difficult for us collectively to subsidise training, and impossible for all save the largest firms to subsidise training individually.

The result is that vocational training of some kind must take place earlier than ideally would be desirable. The Council propose to give direct encouragement to those who take law degrees at universities. This is based on the hope, if not expectation, that the possession of a law degree enables an articled clerk to be of some use to his principal very soon after he is articled. On the other hand, we must remember that the universities, quite rightly, stress the theoretical and broad approach, so that this hope may well be disappointed. The attempt to combine practice and theory in the approved law schools is usually admitted to be a failure. One fundamental question is whether there is any way of bridging the wide and deep gulf which unhappily separates the academic from the practical lawyer.

Subsidise the students

The effect of encouraging the law graduate is to discourage other graduates, although if we believe Mr. Justice Frankfurter they are likely to become solicitors as good as, or even better than, law graduates. The key to the situation lies in Part I of the proposed new examination. The present plan is that the non-law graduate must pass this examination before entering into articles and we agree with those critics who foresee that this will be a deterrent. We suggest that the remedy is to subsidise, if not completely pay for, the initial vocational legal education of non-law graduates to the point at which they can pass Part I of the proposed new examination.

The Law Society has at its disposal a small sum of money for studentships and over £27,000 a year from our practising certificates which at present it uses to subsidise legal education. The effect, if not the intention, of the new scheme will be towards concentrating legal education in the universities and the law tutors, although The Law Society's school will continue to deal with the non-graduates.

The Anderson Committee on Grants to Students (H.M.S.O., Cmnd. 1051, 6s. 6d.) would not accept the proposition that articled clerks should receive subventions from public funds for their maintenance, but they were struck by evidence of how hard a financial struggle it can be for some students seeking high professional qualifications by way of the existing methods of being articled. They therefore stressed that it is in the national interest that an award-making body should be generous in making grants towards the educational expenses of, as distinct from the cost of maintaining, students who study part-time for high professional qualifications.

If the Government accept this recommendation of the Anderson Committee some of the existing cost of legal education will be transferred from private to public shoulders. This could be used to relieve the profession from the subsidy which we are at present paying, but we believe that it would be better to use any spare money released by the Anderson report for the specific purpose of subsidising a six months' course of study at The Law Society's school for non-law graduates.

Review the syllabus

Apart from this we have no fundamental suggestions to make about the proposed new scheme in principle, but we would like to suggest a more complete review of the syllabus for both parts of the new examination.

Dealing first with Part I, we agree with the Council's hint that heads 1 and 2, embracing constitutional and administrative law and an outline of the English legal system, might form one paper. We doubt whether at the present day it is necessary to devote a whole head to equity. After all, nearly 100 years have passed since the administration of law and equity were fused and while some history is relevant we think that it could well be incorporated as part of the English legal system. Practical equity ought to be taught as part of each individual subject and not treated separately. Criminal law could be dropped from Part I entirely and made

an optional subject in Part II where it would be combined with the paper on magisterial law. The only argument in favour of retaining criminal law in Part I is that it gives the students a little light relief.

This would leave in Part I four substantial papers—on the English legal system (including constitutional and administrative law), contract, torts and land law.

Drop compulsory conveyancing

We agree that accounts, revenue law and commercial law should be compulsory subjects in Part II, but with great trepidation we suggest that conveyancing need not be. Although conveyancing is likely to remain the staple diet of many solicitors for many years to come, there are those who will never expect to do any, just as there are some who do not expect to do any litigation. In fact we think that a new voluntary paper might be introduced embracing litigation in its widest aspects, which would leave us with six voluntary subjects, of which it would be reasonable to expect every candidate to take at least two; of course he would be allowed to add to his collection if he wanted. The six optional subjects would be conveyancing, succession, family law, local government and criminal law (including the existing paper on magisterial law) and litigation. Each paper needs some pruning. For example, we wonder whether it is any longer necessary to deal with the form and contents of a strict settlement of land beyond mentioning the fact that it exists, and if the syllabus were critically examined other items could be found which are no longer of the same importance as they were.

So far we have dealt with the graduate. We are left with men and women who wish to become solicitors without being whole-time university students, whether or not they become external students. As we have said on previous occasions, we think that the Council are unwise to insist on two passes at "A" level as a necessary qualification for becoming a solicitor. While this usually would be the qualification, we would prefer all non-graduates who wish to enter into articles to take a course of one year before articles which would not only include the subjects in Part I of the examination, but also a short course on economics and business and commercial life generally. Those students who could not produce two passes at "A" level would be judged on their performance in Part I of the examination. The result would be that our articled clerks would come to us with, we hope, a basic knowledge of law and an outline of the structure of the commercial world so that we ought not to have to spend time on the facts of economic life. Presumably, the Anderson Committee's proposals would cover the cost of this course before articles.

It follows that The Law Society's school would fulfil two functions. It would provide a year's course before articles for the non-graduate and a six months' course to enable the non-law graduate to pass Part I.

We have mentioned the gulf which is fixed between the academic and practical lawyer; unhappily there is another gulf between solicitors and barristers. The modifications which we propose to the Council's scheme would make it easier to devise a unified system of education and training which could be shared to a very considerable extent by articled clerks and Bar students. In particular we consider that articled clerks should be able to share in the practical training which is at present available for Bar students; this would benefit both.

PRIVATE COMPANIES AND THEIR EXEMPTION

WHEN a voluntary settlement is made the settled funds normally attract ad valorem stamp duty at 2 per cent., and this is one of the disadvantages which have to be weighed against the saving of other taxes which may result from the settlement. In order to minimise stamp duty a settlor not infrequently starts off his settlement with a sum of, say, £100 and when the deed has been duly stamped he casts round for kinds of property which can be transferred to the trustees and brought into the settlement without further payment of duty.

Examples of property of this sort are cash, Government securities and, perhaps most important of all, new issues of shares to which the settlor is entitled and which he can vest in the trustees by renunciation of an allotment letter or by a direction to the issuing company. Bonus shares are thus an ideal object for a family settlement, and while in the case of Stock Exchange securities the settlor must wait until a bonus issue comes along, in the case of a controlled company he can arrange for bonus shares to be issued at any time provided only that the company has sufficient reserves. It is worth noting that an original settlement of bonus shares would attract settlement duty at the rate of 5s. per cent., a considerable saving in itself as compared with the usual 2 per cent., but by renouncing the bonus shares in favour of an *existing* settlement stamp duty is avoided altogether.

Swings and roundabouts

Having arrived at this satisfactory result, we may find as so often in tax planning that it is only the beginning of another problem. The shares which the settlor wishes to bring into the settlement may be those of an exempt private company, and the recent decision in *Re Prenn's Settlement* [1960] 3 All E.R. 564; p. 38, *ante*, shows that the method which saves the settlor stamp duty is likely to lose the company its exemption.

The status of an exempt private company, whose principal privilege is that it does not have to file its accounts, depends on compliance with s. 129 of the Companies Act, 1948, and with the two "basic conditions" set out in Sched. VII. One of these conditions, clearly aimed at nominee shareholdings, is that no person other than the holder has any interest in the shares or debentures, and one of the exceptions to this condition covers "any shares or debentures held by trustees on the trusts of a will or family settlement disposing of the shares or debentures. . . ."

In *Re Prenn* the settlor had carried out the sort of manœuvre we have described, by settling two sums of £200 and then arranging that the trustees of each settlement should purchase from him for £150 certain valuable bonus shares which a private company controlled by him had happened to create on the day the settlements were executed. The summons was taken out by the company to determine whether, in these circumstances, the settlements were "family settlements disposing of the shares," failing which the company would lose exempt status because other persons, in the shape of beneficiaries, were interested in the shares held by the trustees.

Family settlements

The construction of Sched. VII appears to be quite uninhibited by previous decisions and the reference to a settlement *disposing* of shares leaves considerable play for the imagination. After analysing the exception, Cross, J., came to the conclusion that it applied only to the trusts of a will or settlement where the shares formed part of the estate or of the original settled fund, and did not cover the case of shares becoming subject to the trust on change of investment. Accordingly the company had lost amateur status.

The decision appears to have turned to some extent on the fact that the trustees changed their investments by applying settled cash in purchase of the shares. What would have been the position if the bonus shares had been *given* by the settlor? It is arguable that the result would have been different, because the gift would have constituted either a new settlement, although a verbal one, or else part of a composite settlement disposing of the shares. Whichever method is employed, the draftsman who wishes to save stamp duty by bringing shares of an exempt private company into an existing settlement would be well advised to ask the settlor how far he values the exemption, and to warn him that it may be in peril.

Indeed the judge mentioned the possibility, but without expressing any views on it, that the exception might not cover bonus shares issued direct to trustees by virtue of a holding comprised in the original settlement.

Finance companies

The Board of Trade must have been carefully scrutinising applications for exemption, because a few weeks after *Re Prenn* the second reported decision on Sched. VII was given, also by Cross, J., in the case of *Qualter, Hall & Co., Ltd.* v. *Board of Trade* [1961] 2 W.L.R. 63; p. 39, *ante*. This case again involved the issue of bonus shares but dealt with an entirely different point.

The other basic condition laid down by Sched. VII is that no body corporate is the holder of any of the shares or debentures, but by para. 7 this is subject to an exception "for any shares or debentures held by or by a nominee for a banking or finance company, where the banking or finance company acquired the shares or debentures or its interest therein in the ordinary course of its business as such and by arrangement with the relevant company or its promoters." Paragraph 7 is headed "Exemption for Banking or Finance Company Providing Capital."

On a reorganisation of the capital of Qualter, Hall & Co., Ltd., the members became entitled to bonus shares which they sold to institutions who were finance companies within the meaning of Sched. VII, the shares being renounced by the members in favour of the finance companies. In this way the finance companies became holders of the shares and the original members obtained funds out of which to make provision for duties payable on their deaths which might otherwise have threatened the continuance of the company as a family concern. The directors evidently believed that this very proper scheme would not endanger the exempt status of the company, but the court held that para. 7 was sufficiently ambiguous for the heading to be prayed in aid and that a finance company "providing capital" meant a finance company lending or subscribing money to the company itself, and not one which purchased shares from the members.

Under the threat of estate duty the interests of a controlled company are closely connected with those of the shareholders, because in certain circumstances s. 46 of the Finance Act, 1940, allows a charge for duty on the company, but this decision shows that, from the point of view of retaining exemption, there is all the difference between a scheme by which finance is provided for the company and one by which it is provided for the members.

PHILIP LAWTON.

County Court Letter

OUTSIDER'S CHANCE

TAKEN by and large, the life of a county court bailiff is full of disappointments and frustrations, particularly when it comes to execution. Over and over again he may call at a house and be unable to effect an entry, even though he is aware of a beady eye scanning him from behind the lace curtains. When at last he gets his foot inside the door, his triumph turns to ashes in his metaphorical mouth when the judgment debtor blandly informs him that everything in the house is either on H.P. or belongs to his wife or some other member of his family.

The first contention can easily be checked, but the second is a very different matter. However unlikely it may seem to be, it may be true, and the joint statement of the debtor and the claimant sets up a prima facie case that may be very hard to knock down. Faced with this difficulty, many judgment creditors decide that the game is not worth the candle, and order the bailiff to withdraw. Sometimes, however, they do not and the result is interpleader proceedings.

The rules of this particular game as played in the county court can be found in s. 136 of the County Courts Act, 1959, and C.C.R., Ord. 28. The preliminaries consist of a claim in writing submitted by the claimant to the bailiff or the court office, notice of which is given by the registrar to the judgment creditor. If he does not admit the claim and ask the registrar to withdraw within four days, the latter enters the interpleader proceedings in the books of the court as a pending proceeding.

Kick off

It will thus be seen that the registrar is in much the same position as the actress who kicks off at the charity football match. Though he has no personal interest in the result of the contest, he is the person who starts it off. Like the actress, he then retires from the field and leaves the whole thing to the two sides and the referee, in the shape of the judge.

Interpleader proceedings are entirely separate from any action as a sequel to which they arise. If one of the parties to the action is legally aided, for instance, an amended certificate will be needed to cover them. Similarly, a general retainer to a solicitor will not extend to interpleader.

The registrar having taken up his position on the side-lines, the first move should be made by the claimant, who within eight days should file in the court office particulars

of the goods claimed by him, stating on what grounds the claim is made. It is not enough merely to state that the goods are your property (*R.* v. *Chilton* (1850), 15 Q.B. 220); you must say how you got them. Even if the particulars required by r. 8 (1) are not properly given, the judge may still adjudicate in the matter; indeed it seems that he must (*Beswick* v. *Boffey* (1854), 9 Exch. 315).

Money down

At the same time, the claimant may deposit with the bailiff the value of the goods seized or at any rate a sum to cover the possession charges (County Courts Act, 1959, s. 135). If the amount paid in is enough to satisfy the judgment debt and costs, even if not the full value of the goods claimed, the bailiff must withdraw. Otherwise he remains in possession, but no sale will take place until the judge has decided the issue. Sale can also be deferred by the registrar even when no deposit at all is made (Ord. 28, r. 10).

One of the problems that faces a judgment creditor when a claim is made in respect of goods seized under his judgment is that of costs. Costs of execution are of course only recoverable out of the proceeds of sale of the seized items. They are not recoverable against the judgment debtor personally. When a claim is made, therefore, the creditor has to make up his mind whether to admit it, and thereby limit his own expense to possession money for the few days during which the bailiff is in possession. His alternative is to run the risk of losing the day when the interpleader proceedings are heard, in which case he may find himself forking out more than he bargained for.

County court registrars tend to lead rather a Jekyll and Hyde life, what with so many of them also being every kind of High Court mast erand registrar rolled into one district registrar, but for interpleader purposes a registrar wears his High Bailiff type hat. Thus glorified, he stands to be shot at by either the execution creditor or the claimant. Fortunately for him he can get some measure of protection from the judge (Ord. 28, r. 4), but an execution creditor against whom a claimant brings an action for damages has to stand on his own feet. From being the pursuer he may therefore suddenly find himself the hunted, with the chance of being hit in the place where it hurts most—the trousers pocket. No doubt this is one reason why interpleader proceedings are comparatively rare.

The other kind

There can be interpleader proceedings quite unconnected with execution, as appears from Pt. II of Ord. 28. Where anyone is under any liability for a sum under £400 in respect of which he expects that two or more people may make a claim, he can apply to the county court to decide whom he should pay. He must claim no personal interest, other than for costs, in the sum in question and be ready to bring it into court. In practice, he would usually be made to do this. Interpleader proceedings are then entered in the books of the court whether or not the applicant is a defendant in any action, and notice given to all possible claimants. In due course the judge decides the issue as between the plaintiff, defendant and claimant, or such of them as appear.

Taken by and large, as we said before—and let us admit that how or why one should do that thing remains a mystery—it would seem that interpleader proceedings are the nearest legal approach to an Irish wedding, since they afford the finest possible excuse for the greatest possible number of individuals to have a right royal bang at each other. The basic difference is that, whereas the wedding guests all have a wonderful time, generally only one party to interpleader proceedings will find them wholly to his liking. Since making knife-edge decisions of this kind is more likely to lead to peptic ulcers and anxiety neurosis than jubilation, include His Honour out.

J. K. H.

PERSON AGGRIEVED AGAIN

An article at 104 Sol. J. 499 under the title "Person Aggrieved" considered a number of cases in which the courts had had to decide whether a local authority were a person aggrieved so as to be able to appeal to quarter sessions under certain statutes. The most recent case there considered was *R.* v. *Dorset Quarter Sessions Appeals Committee; ex parte Weymouth Corporation* [1960] 3 W.L.R. 66. There the Divisional Court held that a local planning authority were not a person aggrieved so as to be able to appeal to quarter sessions under s. 23 (5) (now repealed) of the Town and Country Planning Act, 1947, against the quashing by justices of an enforcement notice served by the authority, even though the justices had made an order for costs against them. Though the authority were aggrieved because of the order for costs, the court held that they were not a person as, on the construction of the Act, there was sufficient contrary intention to exclude the definition in s. 19 of the Interpretation Act, 1889, of "person," which includes any body of persons, corporate or unincorporate, unless the contrary intention appears.

Meaning of "person aggrieved"

Recently the meaning of "person aggrieved" has again had to be considered by the High Court. The case concerned is *Buxton* v. *Minister of Housing and Local Government* [1960] 3 W.L.R. 866, and the relevant statutory provision is s. 31 of the Town and Country Planning Act, 1959. The facts of the case were, shortly, that a company had applied for planning permission to dig chalk from their land, the local planning authority had refused permission, the company had appealed to the Minister against the refusal, an inspector of the Ministry had held a local inquiry at which the company, the authority, and Buxton, who was a neighbouring landowner, and three other neighbouring landowners were heard, and the inspector had recommended that the appeal should be dismissed, but the Minister disagreed with this recommendation and allowed the appeal.

Buxton and the other three neighbours had supported the refusal and the inspector had based his recommendation on, *inter alia*, findings by him that there was a serious danger of chalk dust being deposited on the land of the four of them in quantities which would be detrimental to the user of the land, and that there was no present shortage of chalk in the locality. It is therefore not surprising that the four were annoyed by the Minister's action in allowing the appeal and, there being no further appeal on merits, they made an application to the High Court under s. 31 of the 1959 Act.

Section 31 provides that "If any person . . . (*b*) is aggrieved" by, *inter alia*, a decision of the Minister on appeal and desires to question its validity on the ground that it is not within the powers of the relevant Town and Country Planning Acts or that any of the relevant requirements have not been complied with he may apply to the High Court under the section, and the court, if satisfied that the decision is *ultra vires* or that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements, may quash the decision.

Grounds for application

The four owners' application was based primarily on two grounds, namely: (1) that, as appeared from the Minister's decision letter, the Minister in rejecting his inspector's findings of fact relied on certain subsequent advice and information given to him by the Minister of Agriculture without affording the authority or the four owners any opportunity of correcting or commenting upon this advice and information; and (2) that the Minister's decision was inconsistent with another decision given by him in similar circumstances relating to other land close by. It is a pity that no one will ever know what the court would have thought of these grounds; a decision on the first would have been particularly interesting. But the Minister took a preliminary objection that the four owners were not persons aggrieved within the section, an objection which Salmon, J., before whom the matter came, felt constrained to uphold.

There could be no doubt that the owners were persons; the question was—were they aggrieved?

Judgment

In his judgment Salmon, J., said that if he could approach the problem free from authority, without regard to the scheme of the Town and Country Planning legislation and its historical background, the arguments in favour of the four applicants on the preliminary point would be most persuasive, if not compelling, for in the widest sense of the word the applicants were undoubtedly aggrieved. But the scheme of the legislation was to restrict development for the benefit of the public at large and not to confer new rights on any individual members of the public; the Legislature had made the local planning authority, under the general supervision of the Minister, custodians of the public rights. He doubted whether the four had any legal right to appear at the inquiry, though no doubt it was the practice of inspectors very sensibly to hear any member of the public who desired to be heard, even although he had no right to be heard. The guiding principle laid down by James, L.J., in *In re Sidebotham* (1880), 14 Ch. D. 458, at p. 465, which, as far as he knew, had never been challenged, was that the words "person aggrieved" in a statute connoted some person with a legal grievance. No legal rights of the four owners had been infringed and no legal obligation had been imposed on them by the Minister's action.

The reader will remember that the 1959 Act contains provisions (s. 37) for the notification of applications for planning permission to owners and agricultural tenants of the land to which the applications relate, and the owners and tenants are given the right to make representations to the local planning authority and to the Minister if there should be an appeal. Salmon, J., was of the opinion that any such owner or tenant who had made representations to the Minister would be a person aggrieved within s. 31 if the Minister acted *ultra vires* or failed to comply with the statutory requirements. Section 36 of the 1959 Act also provides for the publication of notice of applications for planning permission of certain limited classes, and requires the authority, and the Minister on a reference to him under s. 15 of the 1947 Act, to take into account any representations received within twenty-one days. Although this section is not mentioned in the judgment, doubtless on the same reasoning any member of the public who had so made a representation to the Minister on such a reference and was disappointed with the result would be a person aggrieved within s. 31. If, therefore, the application had been for permission, e.g., to use the land for sewage disposal (see art. 7 of the Town and Country Planning General Development Order, 1959 (S.I. 1959 No. 1286)) instead of to dig chalk and had been dealt with on such a reference there might have been an important decision on the points of substance, instead of a mere procedural decision.

A curious position arises under s. 36 of the 1959 Act in relation to an appeal to the Minister. The requirements of that section apply to a reference to the Minister under s. 15 of the 1947 Act but do not apply to an appeal, though the requirements of s. 37 do (compare s. 36 (5) with s. 37 (5)). So that although a third party has the right in a s. 36 case to make representations to the local planning authority, he has no right to make representations to the Minister on appeal, though doubtless in practice the Minister's inspector would hear him. Would he be a person aggrieved by the Minister's decision if it went against him? It seems clear that he ought to be but whether he is may yet have to be decided by the High Court. Clearly the Act should be amended as soon as possible to obviate any doubt.

Though in *Buxton's* case the Minister thus acted to exclude third parties from applying to the High Court to secure the quashing of his decision on appeal, no doubt his inspectors will continue the practice of hearing such persons at public local inquiries whether or not they have any statutory right to be heard.

R. N. D. H.

"THE SOLICITORS' JOURNAL," 9th FEBRUARY, 1861

On the 9th February, 1861, The Solicitors' Journal published an article on strikes: "There can be few social questions that have given rise to more discussion in the present age than those which affect the rights of masters and workmen. Political economists tell us that it is in vain to legislate upon the subject. They say that the price of labour, like the price of everything else, ought to be regulated solely by the law of supply and demand; and after centuries of fruitless legislation we have arrived at this conclusion at last. We leave both masters and workmen at perfect liberty to make between themselves whatever agreements they choose. We interfere only to protect those who are supposed to be unable to protect themselves, namely women and children in factories and mines . . . But the liberality of modern legislation does not stop there. It is now lawful for workmen to combine for the purpose of raising wages as it is for masters to combine for the purpose of lowering them. The former, in short, are allowed to dispose of their skill and labour, and the latter of their capital, to the best advantage. Such for five and thirty years has been the law of the United Kingdom. But the freedom of action thus allowed . . . has not had the effect of reconciling these rival interests. We need only refer to the history of the last eighteen months in confirmation of this fact. In no similar period, we believe, have so many trade strikes taken place and been organised upon a more . . . extensive scale."

SECRECY AT THE LAND REGISTRY

To mix a metaphor, the Land Registry, while spreading its tentacles further and further across the country, maintains its clam-like secrecy. There is a statutory obligation—under s. 112 of the Land Registration Act, 1925—not to divulge details of entries to anyone but registered proprietors and those they authorise, and many may regard this as an essential protection for the Englishman's castle. But do the advantages of secrecy outweigh the advantages of at least a limited measure of publicity? In any case, are the present rules logical?

The primary fact recorded by the Land Registry, and kept secret by them, is who owns a particular parcel of land. Certainly if the title is not registered, no unauthorised person can see the deeds to find out the owner's identity. But there would clearly be advantages in a national register publicly recording the names of the owners of every piece of land. One may wish for example to negotiate a purchase (compulsory or otherwise) from the owner, to serve a notice on him (so much more satisfactory then pinning it on the property), to negotiate an easement or even to take proceedings for nuisance. Often it will be to the owner's advantage to be known so that he may be approached, and in other cases it would probably be in the public interest.

At present a registered title is more shielded from the public gaze than an unregistered one, as the Land Charges Registry may be searched by anyone knowing the names of the relevant estate owners. The equivalent information regarding the heterogeneous collection of covenants, contracts, charges and annuities is, however, regarded as completely secret once land becomes registered. In this respect the registration system is retrogressive.

Pre-1926 anarchy

Registration under the Land Charges Act, 1925, being actual notice to all (Law of Property Act, 1925, s. 198), including apparently prospective purchasers before contract (*Re Forsey and Hollebone's Contract* [1927] 2 Ch. 379), there is every incentive to search before contract. But the Land Registration Act puts us back to the pre-1926 anarchy as far as the equitable doctrine of notice is concerned. The effect is particularly noticeable in the case of an estate contract, knowledge of which would normally deter any other purchaser. Assuming that the purchaser does register his contract or option—and the mechanics are far more cumbersome for a registered title if the registered proprietor does not co-operate—he will be protected, but the second purchaser may actually exchange contracts without knowledge of the estate contract, and the resulting waste of time and money and possibly litigation would be a direct result of the difference between the two systems.

There seems little harm in making such subsidiary information generally available. No public discontent is voiced at the completely open nature of the register of local land charges, even though it may include such personal matters as improvement grants or overdue and unpaid road charges.

Even now the Land Registry secrecy is not absolute. It is possible to confirm whether or not a particular person is the registered proprietor of a certain plot of land if the searcher has an adequate reason for being interested in that person's property. First, the title number of the land is found by a search of the index map. Then a search of the alphabetical index of names of registered proprietors will reveal whether the land does in fact belong to that person. This is by no means infallible, as the holding may be in joint names; but the exception tends to prove the rule unnecessary.

Unfortunate solicitor

The present position can lead to inconveniences greater than intended, as the following true account shows. Recently a solicitor acting for a large group of property companies applied to make a personal search of the entries relating to land owned by one of the companies. The main object of the search was to discover in the name of which company the land was in fact registered, as, by an administrative oversight, all record seemed to have been lost. Adhering to the rules, the Land Registry official would not allow any search until the solicitor filled in the name of the registered proprietor on the search form. The only course of action left was to submit and re-submit the form with each name in turn until the solicitor's patience, or his bad luck, was exhausted.

There is an obvious parallel to the proposal of public records of the ownership of land in the filed registers of company shareholdings. Similar principles could be adopted with advantage. Not everything should be open to the public gaze: for instance, the price paid might be secret, as might the amount of any mortgage and even possibly its existence. On the other hand a simplified public register would certainly contain the proprietor's name and address, probably all the present contents of the Property Register (although details of leases might be further abbreviated to leave only the expiry date of the term), and also at least brief particulars of most matters noted on the Charges Register.

For those landowners who particularly want to conceal their identity, the device of registering a nominee would be as useful as in the case of shareholdings. But the purpose of publicity would not be defeated: a name and address for correspondence and the service of notices would still be available. It might even be that firms of solicitors would find a call for the services of a nominee company sponsored by them, as the banks now have for securities. Certainly a public register would give solicitors, being skilled in the interpretation of the entries shown, a chance of extending the scope of their service to the public.

T. M. A.

Obituary

Mr. MONTIE PHILLIP ARNOLD, solicitor, of London, W.C.2, died on 12th January, aged 75. He was admitted in 1906.

Mr. RICHARD ERNEST CAWSEY BALSDON, Barnstaple's oldest practising solicitor, died on 13th January, aged 87. Admitted in 1896, he was formerly Clerk to Barnstaple Rural District Council.

Mr. WILLIAM GERALD BIRCH, late managing clerk to Messrs. Amery-Parkes & Co., of London, W.C.2 and W.1, died on 25th January, aged 55.

Mr. ARTHUR HAROLD CROSS, solicitor, of Evesham, Worcestershire, died on 21st January, aged 79. He was admitted in 1924.

Mr. WILLIAM LEIGHTON DANN, solicitor, of Newcastle upon Tyne, has died, aged 70. He was admitted in 1912.

Landlord and Tenant Notebook

KITCHENS AND KITCHENETTES

In *Fredco Estates, Ltd.* v. *Bryant* [1961] 1 W.L.R. 76 ; p. 86, *ante* (C.A.), the plaintiff landlords succeeded in showing that the second defendant's father had died a statutory tenant of the house claimed and that, her mother having then become its statutory tenant, she had no right to any tenancy of the house (see p. 77, *ante*). But there was another issue in the case, which arose out of the fact that on the daughter's marrying in 1935 the father had sublet a room to her and her husband, the first defendant, with joint use of a " scullery " for the purpose of cooking ; and the further fact that in 1945, when the father died, the mother had allowed the defendants the use of three other rooms, making no extra charge. The joint use of the scullery continued, though the second defendant did a good deal of cooking for her mother, who was then an invalid, as well as for herself and the first defendant.

When the county court judge had decided that the second defendant had no claim to a tenancy of the house he went on to hold that the 1945 arrangement had brought about a surrender of the sub-tenancy of the room. This made it unnecessary for him to pay much attention to the question whether the cooking facilities had prevented the subletting being a subletting of a dwelling-house or part of a dwelling-house to which the Rent Acts would apply.

Surrender

The Court of Appeal, while upholding the judgment on the statutory or contractual tenancy point, did not agree with the decision that there had been such a surrender. It would, of course, have had to be a surrender by operation of law (which might well, in my submission, be more properly called a surrender by operation of facts), i.e., an implied surrender ; and there was nothing, it was held, to give rise to such an implication. The parties had not so acted that it was inconsistent with their acts to suppose that the existing tenancy continued. The court therefore proceeded to consider the effect of the sharing arrangement.

Joint use

Sharing has become the subject of special legislation, the Landlord and Tenant (Rent Control) Act, 1949, but the defendants probably desired more protection than what is afforded to tenants sharing with landlords by s. 7 of that statute, while the plaintiffs were out to show that what remained let was " not a dwelling-house to which the principal Acts apply." They therefore contended that the scullery used for cooking—it is significant that while witnesses called it a scullery the judge called it a kitchenette—was accommodation which could, as Morton and Mackinnon, L.JJ., put it in *Cole* v. *Harris* [1945] K.B. 474 (C.A.), be described as a living room or a dwelling room.

Cooking

When considering the meaning of " dwelling," Scott, L.J., said, in *Wright* v. *Howell* (1947), 92 Sol. J. 26 (C.A.), " that it included all the major activities of life, particularly sleeping, *cooking* and feeding " and this would go some way to supporting the proposition that a scullery used for cooking was living accommodation. The decision was not mentioned in *Cole* v. *Harris*. The " sharing " in that case was of a combined bathroom and w.c., and it was held that this did not prevent the tenancy of three rooms (one of them a combined kitchen and scullery) from being a separate dwelling. In the course of an elaborate judgment, Morton, L.J., stated the law in a passage now cited by Ormerod, L.J., which, for the purpose of my comments, I propose to divide into three : (i) " If the Legislature had used words which would only bear this construction, if fairly construed, we should have had to give the words this construction . . . In my view, however, the words are fairly open to another construction." (ii) " I think that the true test, where the tenant has the exclusive use of some rooms and shares certain accommodation with others, is as follows : there is a letting of part of a house as a separate dwelling . . . if, and only if, the accommodation which is shared with others does not comprise any of the rooms which may fairly be described as ' living rooms ' or ' dwelling rooms.' To my mind a kitchen is fairly described as a ' living room,' and thus nobody who shares a kitchen can be said to be tenant of part of a house let as a separate dwelling." (iii) " In many households the kitchen is the principal living room, where the occupants spend the greater part of the day. Very often it is the warmest part of the house and the family tend to congregate there for that reason."

Mackinnon, L.J., was content to say : " I think Morton, L.J., provides the best formula by saying that to create a demise of part of a house as a separate dwelling there must be an agreement by which the occupier has the exclusive use of the essential *living* rooms of a separate dwelling-house. After all, a dwelling-house is that in which a person dwells or lives, and it seems reasonable that a separate dwelling should be one containing essential living rooms. A w.c. may be essential in modern days, but I do not think it is a living room, whereas a kitchen, I think, is."

The test

In my submission, it is passage (ii) of Morton, L.J.'s judgment which formulated a test, and while there is no objection to judges showing that they know something about the way of life of less exalted mortals, the allusions to the warmest part of the house occupied for most of the day, etc., are not part of the test. Mackinnon, L.J., was not referring to them, nor did he tell us anything about the but-and-ben way of life. It is significant that, not long afterwards, Morton, L.J., himself emphasised the nature rather than the extent of use when, holding in *Stevenson* v. *Kenyon ; Kenyon* v. *Walker* (1946), 62 T.L.R. 702 (C.A.), that a right to use the kitchen at all times for the purposes of cooking but not for other purposes excluded a sub-tenancy from the Rent Acts, he purported to apply his own *Cole* v. *Harris* test as agreed to by Mackinnon, L.J.

In *Winters* v. *Dance* (1949), 64 T.L.R. 609 (C.A.), too, more importance was attached to what was done in the shared room than to how long was spent in it by whom. It was described as a " kitchenette " (a term used, as I have mentioned, by the county court judge, though not by the witnesses, in *Fredco Estates, Ltd.* v. *Bryant*) and, though it contained a water heater and a table as well as a cooker, and was only 7 ft. by 6 ft. in superficial area, was held to be a living room.

On the other hand, a tenant who had the right to use the " kitchen and scullery " only for the purpose of drawing water and that of boiling washing once a week was held, in *Hayward*

v. *Marshall ; Winchester* v. *Sharpe* [1952] 2 Q.B. 89 (C.A.), to be tenant of a separate dwelling. Indeed, a similar question had been before a Divisional Court long before in *Ellis* v. *Baker* [1923] E.G.D. 18, deciding that a right to use a scullery on certain days did not prevent the Acts from applying.

Emphasis

While the evidence of the sharing rights in *Fredco Estates, Ltd.* v. *Bryant* was somewhat scanty, my respectful submission is that, if the court's attention had been drawn to the later decisions mentioned above, they might well have concluded that the joint use of the scullery or kitchenette in the case before them deprived the letting of the character of that of a separate dwelling. It may not have been the warmest part of the "house" where the family tended to congregate for that reason ; but it was used for the purpose of cooking and was essential to the dwelling.

R. B.

HERE AND THERE

NO TEST CASE

SINCE the gallant Captain Galvao found himself prevented by force of circumstances from making his intended landfall in Angola, it is a thousand pities that he did not adopt the alternative of putting in to a British port. As a declared and, if we are to believe his affirmations, a fanatical Liberal, he doubtless has an almost superstitious reverence for the Rule of Law. For their liberality with that commodity the British courts are famous, besides having in matters maritime a justly high reputation. So, surely for so enthusiastic a reformer it would have been but a trifling sacrifice to stand his trial for piracy and murder, so as to obtain from the Central Criminal Court, the Court of Criminal Appeal and eventually the House of Lords an authoritative ruling, for the guidance of other seafaring Liberals, on the point of law of unusual public importance : just what did his performances on the high seas amount to ? The originality and boldness of his conception staggered the world, including not only the Portuguese Government but also all prospective tourists bound for the Caribbean, the entire Merchant Marine, and, of course, the lawyers. The classical definition of piracy in Stephen's Digest of Criminal Law is this: "Taking a ship on the High Seas . . . from the possession or control of those who are lawfully entitled to it and carrying away the ship itself or any of its goods, tackle, apparel or furniture under circumstances which would have amounted to robbery if the act had been done within the body of an English County" —on the Manchester Ship Canal, for example. If what Captain Galvao and his fellow Liberals achieved did not amount to piracy and murder he has made no less than an epoch-making discovery in international law and international relations.

POLITICS AFLOAT

MANY very sensible people in England consider that a great Liberal resurgence and a Liberal Government at Westminster would be an excellent thing for the country. Many Socialists feel that their party is being unfairly kept out of office. Suppose a prominent Liberal or Socialist leader, weary of a political system which produced such inequitable results as their exclusion, were to seize the largest, fastest and most luxurious pleasure barge on the Manchester Ship Canal, shoot the man at the wheel, who was illiberal enough to resist the take-over bid, and (because of the urgency of the operation), carrying off the passengers and the remainder of the crew, sail out to sea with the preliminary intention of liberating, as a base for the coming liberation of Britain, the Isle of Man or, better still, South Uist, where a tyrannical government has arbitrarily imposed on the peace-loving natives a great unwanted rocket range base. Would it be held, do you suppose, that that amounted to robbery and murder ? Well, that would be a matter for the courts, assisted, of course, by the legal correspondent of *The Guardian* (of Manchester), who would, no doubt, be retained for the defence. It would further add to the interesting features of the case if the leader, unable to recruit among militant British Liberals more than one-tenth of the men required for the enterprise, had made up the rest of his party with Spaniards and Portuguese.

THE PIRATE DEMOCRAT

BUT, to leave aside this hypothetical case, Captain Galvao would, of course, repudiate with indignation the stigma of being a Pirate King or a Pirate Dictator. Very well, then, by what principles or conventions are the proceedings of a Pirate Democrat governed ? Strictly speaking, I suppose he should have taken a vote among the passengers and crew as to whether his "take-over bid" should be accepted or rejected. In his view of the state of mind of the Portuguese people he could (or should) have confidently hoped that the crew would vote almost unanimously in his favour. That would have been over 300 votes (if he was right in his expectations). As for the passengers, well, he might have thought the glory of the enterprise, and the certainty of having a topic of conversation among their friends for the next ten years (what a cruise !) and a highly saleable line in newspaper and magazine articles immediately on landing, would reconcile a substantial number to the deviation. Anyhow, it would have been a longer and more exciting cruise for their money. So perhaps conventional democratic methods might have been more rewarding for these Liberals than the emergency methods which they adopted. But one must excuse their boyish enthusiasm. Their own General Delgado himself, the president of the "International Junta of Liberals," proposes when (or if) he assumes power in Portugal to postpone the holding of elections for two years while he conditions the inhabitants to his sort of Liberal ideas. Meanwhile we are deprived of a test case which would establish just how the law stands in relation to such happenings as those aboard the *Santa Maria*. Never mind, we may get another chance. There are plenty of countries who feel that, though Macmillan's England (like Salazar's Portugal) is not yet an international outlaw, it ought to be, and we may yet see the cross-channel steamer *Britannia Infelix* taken into possession by a mixed band of democrats, half a dozen Britains and the rest Poles, Czechs, Bulgarians and Rumanians, bent on liberating England and establishing a People's Democracy instead of the present set-up. Perhaps we shall get our test case then as to whether politics and piracy are incompatibles which cannot co-exist.

RICHARD ROE.

REVIEWS

The Quantum of Damages. Second Edition. Volume I—Personal Injury Claims. By DAVID A. McI. KEMP, B.A. (Cantab.), of the Inner Temple and the Wales and Chester Circuit, Barrister-at-Law, MARGARET SYLVIA KEMP, M.A. (Cantab.), Solicitor, and C. J. C. McOUSTRA, M.A. (Cantab.), of the Inner Temple and the Western Circuit, Barrister-at-Law. pp. xxxv and (with Index) 743. 1961. London: Sweet & Maxwell, Ltd. £3 3s. net.

The success of the first edition of this book might have encouraged the authors to bring out a new edition which was nothing more than the old brought up to date by the addition of new cases. But they have not done this: the whole scheme of the book has been revised, entirely new chapters have been added, and the result is a work of reference of weight and worth. The new book is nearly twice as large as the old, although much pruning has been done on the text, because many more cases have been included and there are new tables of awards to special classes, such as children and the elderly. The momentous case of *British Transport Commission* v. *Gourley* has been decided since the first edition was published and this and other tax decisions are dealt with in a new chapter on "The Incidence of Tax"; there is also a full analysis of the practical disadvantages of the *Gourley* decision in an appendix, with a suggestion for legislation which would do away with the present manifestly unjust system by making the defendant liable to pay a sum based on the defendant's gross loss of earnings, the plaintiff being liable to pay tax in the future on his earnings plus a notional figure calculated by the court when awarding damages for loss of future earnings. One very welcome addition is a series of seven full-page plates, depicting in simple diagrams the various parts of the human skeleton, with each bone and joint given its correct anatomical name. The agonies of comprehending medical reports will be greatly reduced—unhappily there are some cabalistic codes, such as that used by some psychiatrists, which do not lend themselves to such a simple solution.

A useful change has been made in the part of the book dealing with classified awards: as before, each chapter deals with one part of the body, but there is now a summary of all the authenticated awards at the beginning of the chapter, while the unauthenticated awards relating to that part of the body are given at the end of each chapter, instead of being gathered together at the end of the book.

Although it is true, as Lord Birkett said in his foreword to the first edition, that damages can never be standardised and the decision in one case may not be much help in deciding another, some guide is essential, and the method adopted here, of giving the relevant parts of the judgment in full in the most important cases, avoids some of the dangers of the systematic classification of injuries and awards in synoptic form. The authors rightly stress that it is in the Court of Appeal cases that the most valuable indications of the measure of damages are to be found; but if this book is used intelligently, together with the up-to-date figures for awards in *Current Law*, it will give the practitioner a very good idea of the sort of sum likely to be awarded in any particular case. For any greater accuracy, he must rely on experience—either his own or another's—of the general trend both in decided cases and in the much more numerous ones which are settled out of court. In this book he will find a reliable companion, and one which, even at the increased price, remains very good value since it is in effect both a text-book and a series of law reports. It is to be hoped that the new edition of vol. 2, on Fatal Injury Claims, will follow very shortly.

An Introduction to the Law and Practice of Betting and Bookmaking. By J. T. CHENERY, D.P.A. (Lond.), Solicitor. pp. xvi and (with Index) 268. 1961. London: Sweet & Maxwell, Ltd. £1 15s. net.

The passing of the Betting and Gaming Act, 1960, has created a demand for a work on this subject, both by bookmakers and their legal advisers. This book has been written by a solicitor employed in a business of bookmaking primarily for those engaged in, or about to enter, that business. On the author's own admission, some detail has been omitted which would have been included in a work intended solely for lawyers.

From the lawyer's point of view this is unfortunate because there is a need for authoritative and up-to-date books on the law relating to betting and gaming. As far as we can see, the lawyer will seek in vain in the book under review for an answer to such questions as what is and what is not "private gain" within the meaning of the relevant statutory provisions. Indeed gaming and lotteries as a whole have not been dealt with at great length because at the present time these are not generally conducted by professional bookmakers.

This work may not provide a solution to many of the points upon which bookmakers may seek their advice, but solicitors not already familiar with this branch of the law will find this book to be a useful introduction to the law and practice within its scope.

Road Traffic Acts, 1960. Reprinted from Butterworth's Annotated Legislation Service. By ROBERT SCHLESS, of Gray's Inn, Barrister-at-Law. pp. xviii and (with Index) 334. 1961. London: Butterworth & Co. (Publishers), Ltd. £2 10s. net.

This book contains the full text of the Road Traffic Act, 1960 (which consolidated the various Road Traffic Acts, 1930 to 1956), of the Road Traffic and Roads Improvement Act, 1960, and of the two minor statutes relating to driving licences passed in 1960. There are also an introduction explaining the effect of the last three Acts, an index and a comparative table showing where provisions of the repealed statutes are to be found in the new Act. Each section of the consolidating Act is also annotated and contains the necessary cross-references for definitions, transitional provisions, etc. Many of the High Court decisions on the former Acts and on other comparable provisions are cited. The book is of a convenient size and will be useful to the practitioner who needs to refer at all frequently to the text of the new Acts; the annotations and cross-references make it far more useful than a Queen's Printer's copy of a statute would be. We would not recommend the book as the sole equipment of an advocate dealing with a traffic case before magistrates because several important decisions on common subjects such as dangerous and careless driving have not been included. However, Mr. Schless can no doubt say quite reasonably that the book is not intended as a standard text-book on all aspects of road traffic law. If used in conjunction with other text-books, it will be a valuable addition to the practitioner's library.

The Encyclopedia of Road Traffic Law and Practice. General Editor: JOHN BURKE, of Lincoln's Inn, Barrister-at-Law. 1960. London: Sweet & Maxwell, Ltd. Edinburgh: W. Green & Son, Ltd. £7 7s. net.

The threat or promise of consolidation of the Road Traffic Acts held out in 1956 was not fulfilled until 1960 and that, no doubt, is why a comprehensive volume of road traffic statutes and regulations has been lacking for so long. This Encyclopedia contains the full text of the Road Traffic Act, 1960, the Road Traffic and Roads Improvement Act, 1960, the two other minor Acts on road traffic passed that year, the Road Transport Lighting Acts and the Vehicles (Excise) Act, 1949, as amended by several subsequent Finance Acts. It also contains the relevant parts of other Acts affecting road traffic and the full text of the numerous statutory instruments on the subject; these instruments cover 571 pages. Finally, there are precedents for informations and summonses for many traffic offences and an index. The work is in loose-leaf form, so that, when new regulations are issued—and, in the words so favoured by the police, one has "reason to believe" that the Ministry of Transport will not now sink into a torpor and refrain from issuing any for the next quinquennial period—the new regulations can be fitted immediately into their proper place and revoked ones extracted.

With the book containing so much, it cannot truthfully be said that it is of handy pocket size unless the user wears suits of the kind sometimes favoured by circus clowns. Its bulkiness is clearly unavoidable and it is in fact rather smaller than many other legal text books. The publishers have included it in their Local Government Library and a considerable part of the road traffic legislation is concerned with the duties of councils as to parking places, designating one-way streets and so on. Part V of the Road Traffic Act, 1930, which appears to be unrepealed

and relates to omnibus services of local authorities, is not included, no doubt by oversight, and we did not find the parts relating to prosecutions under the Vehicles (Excise) Act, 1949, as helpful as they could have been. There is no mention, for example, of s. 290 (1) of the Customs and Excise Act, 1952 (as to the conclusiveness of an averment that proceedings have been instituted by order of the local authority), nor does the Editor say why he has omitted a reference to *Jones* v. *Wilson* [1918] 2 K.B. 36 (as to separate authorisations of prosecutions under ss. 13 and 15 of the 1949 Act). However, these are not serious faults and the book will be of great value in the offices of town and county clerks.

We recommend the book even more enthusiastically to the private practitioner and to the police. It is obviously convenient to have all the statutes and regulations in one volume, in particular rare birds like the Motor Vehicles (Construction and Use) (Track Laying Vehicles) Regulations and the Traffic Signs Regulations, which are not to be found in other text books. Regulations, we may add, are printed as amended. Each section of a statute is fully annotated not only with references to its source but also with cross-references to other provisions defining expressions in it and with short notes giving the effect of cases decided on its terms. The advocate will find that this book will give him practically everything that he needs to know for a prosecution or defence of a road traffic case and, for the solicitor who has to advise a transport company at all frequently, it will be indispensable.

There is one final matter which we mention as a suggestion for improvement and not as a criticism. The number of solicitors who have knowledge and experience of the mysteries of applying for licences for public-service vehicles and for A, B and C licences is probably small, but it is a job which may come the way of any practitioner. As regards licences of the former kind, this book does no more than set out the statute with cross-references and notes of High Court decisions. It is far fuller on carriers' licences and the notes to ss. 171 to 180 of the Road Traffic Act, 1960, mention very many decisions of licensing authorities, etc., reported in the reports called Traffic Cases. Few solicitors have those reports and we doubt if many provincial law libraries have them either. The notes in the book under review give the subject-matter of the decision but generally not what it was. We would suggest that these notes should be expanded to give more information to the practitioner about each case and also that a chapter describing the procedure before these tribunals should be added. We appreciate that this may require a specialist editor and will increase the book's bulk, though some regulations printed in it, e.g., those relating to Index Marks, could be omitted with loss to no one. Nevertheless, we feel that, until this is done, this book, excellent as it is, is not the complete guide to road traffic law that is needed.

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Dating a Deed

Sir,—In view of the complexities and traps revealed by the recent articles on this topic, would it not be as well if a standard clause were evolved, to be inserted in all deeds, at least in cases in which solicitors are instructed—

(*a*) giving power to the solicitors for the parties to agree the date of the deed and to insert such agreed date therein; and

(*b*) providing that there shall be a conclusive presumption that such date is the date of execution and delivery of the deed for all purposes?

It is realised that, although in the present state of the law the adoption of this suggestion would probably bind the parties themselves, others might not be bound. If this is so, the law should be changed because it seems obviously desirable that uncertainty should be removed and the matter should not be bedevilled with technicalities.

If such a law were to provide that there was an irrebuttable presumption, in the absence of proof of fraud, that the date of the deed was the date both of its execution and delivery, there would, of course, be no necessity for the standard clause suggested at the beginning of this letter.

PAUL M. GILMORE.

London, W.C.2.

Sir,—I expect that others besides myself, while finding P. P.'s articles of considerable academic interest, regret that he concluded the series without any attempt to reconcile theory with practice.

To take the most simple everyday example of a man buying a house with the aid of a building society advance. I imagine that it is the well-nigh universal practice of solicitors acting for the purchaser to have conveyance and mortgage simultaneously executed by their client and to send the former to the vendor's solicitor for execution by the vendor. Thus the mortgage is delivered before the conveyance and, if the deeds are correctly dated with the dates of their respective delivery, an obvious defect appears upon the title. If the vendor happens to be paying off a mortgage on completion, then there is a good chance of two defects for the price of one.

The objections to deferring the execution of conveyance and mortgage by a purchaser until after completion of his purchase with borrowed money are too obvious to need any elaboration. Only one alternative seems to remain—for the purchaser's solicitor to invite the vendor's solicitor to notify him when the conveyance has been executed by the vendor and, on receipt of confirmation that this has been done, to have the mortgage executed by the purchaser. Then the purchaser's solicitor may deliver to the building society his report on title and requisition for cheque. The deeds will now be dated in the proper sequence, general inconvenience will have been caused all round and anything from a week upwards will have been added to the time between agreement and completion. But I thought we were all trying to speed up conveyancing practice!

Has P. P. any solution to the impasse other than to carry on as before and risk the penalties of negligence, forgery and the like?

J. W. C. HAWKESWORTH.

Malton,
Yorkshire.

[*Our contributor writes:* Mr. Hawkesworth's point is well made. It is quite true that the law and present practice cannot be reconciled, although, as the article indicated, practice does prevail without apparent difficulty by virtue of the presumption as to regularity. However, this problem cannot be treated separately from the complexities of delivery in escrow, which, in accordance with the scheme of the present series, together with solutions are to be discussed later when dealing with the formalities of execution of deeds.]

THE COUNCIL ON TRIBUNALS

The Tribunals and Inquiries (Air Operators' Certificates) Order, 1961 (S.I. 1961 No. 153), which came into operation on 1st February, brings under the supervision of the Council on Tribunals persons appointed by the Lord Chancellor, the Lord President of the Court of Session or the Lord Chief Justice of Northern Ireland to hear appeals from decisions of the Director of Aviation Safety relating to air operators' certificates, and provides for an appeal on a point of law from any person so appointed to the High Court, the Court of Session or the High Court in Northern Ireland.

NOTES OF CASES

The Notes of Cases in this issue are published by arrangement with the Council of Law Reporting, and, in general, full reports will be found in the Weekly Law Reports. An asterisk against a case indicates that there is no present intention of reporting it in the Weekly Law Reports.

Judicial Committee of the Privy Council

COURT OF CRIMINAL APPEAL: SUBSTITUTION OF SENTENCE: STATUTORY POWERS

R. *v.* Edirimanasingham

Lord Reid, Lord Tucker, Lord Denning, Lord Morris of Borth-y-Gest, the Rt. Hon. L. M. D. de Silva. 17th January, 1961

Appeal from the Court of Criminal Appeal of Ceylon.

The respondent, who had been indicted on three charges, one of murder and two of attempted murder, was found guilty on all three counts. The trial judge in Ceylon sentenced him to rigorous imprisonment for life on the murder count, but passed no sentence on him in respect of either of the other two counts. On his appeal, the Court of Criminal Appeal of Ceylon, on 26th January, 1959, quashed his conviction on the murder count, and held that s. 6 (1) of the Court of Criminal Appeal Ordinance, 1938, of Ceylon (which is identical in terms with s. 5 (1) of the English Criminal Appeal Act, 1907) gave them no jurisdiction to pass the appropriate sentences on the other two counts on which the jury's verdict stood, which was not challenged on the appeal. Section 6 (1) of the Ordinance provides that " If it appears to the Court of Criminal Appeal that an appellant, though not properly convicted on some charge or part of the indictment, has been properly convicted on some other charge or part of the indictment, the court may either affirm the sentence passed on the appellant at the trial or pass such sentence in substitution therefor as they think proper and as may be warranted in law by the verdict on the charge or part of the indictment on which the court consider that the appellant has been properly convicted." The Crown now appealed against the court's decision that it lacked such jurisdiction.

LORD TUCKER, giving the judgment, said that the Court of Criminal Appeal could under s. 6 (1) pass the appropriate sentences on the two counts on which the judge had omitted so to do. Where the sentence passed on the appellant at the trial had been quashed the words of the subsection in their ordinary and natural meaning conferred power on the Court of Criminal Appeal to substitute a proper sentence for that which had been quashed, which could only be done by passing sentence on the remaining good counts. That was the course adopted in *R.* v. *O'Grady* (1941), 28 Cr. App. R. 32. Appeal allowed, and case remitted to the Court of Criminal Appeal for such action as they might consider appropriate in the circumstances.

APPEARANCES: *F. H. Lawton*, Q.C., and *T. O. Kellock* (*T. L. Wilson & Co.*); *E. F. N. Gratiaen*, Q.C., Ceylon, *Walter Jayawardena* and *Miss M. K. de Silva* (*Goodman, Derrick & Co.*).

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law]

Court of Appeal

INCOME TAX: TRUST: POWER OF ADVANCEMENT: INCOME OF SETTLOR

Inland Revenue Commissioners *v.* Bernstein

Lord Evershed, M.R., Harman and Donovan, L.JJ.

9th December, 1960

Appeal from Danckwerts, J. ([1960] Ch. 444; 104 SOL. J. 250).

By a settlement dated 16th October, 1947, a fund was settled on trust to accumulate the income therefrom during the life of the settlor, and after his death on trust as to one-third for the children then living of the settlor by his present wife, and as to two-thirds for the wife absolutely; if the wife died during the lifetime of the settlor the fund was to be held on trust for her children living at his death, but if at the death of the settlor there were living no children of his by the wife, then on trust for the wife absolutely; and if she should die during the settlor's lifetime without leaving any children, on trust for her sister absolutely. The settlor appealed against assessments to surtax for the years 1950 to 1954 in respect of income arising under the settlement. Both the Special Commissioners and Danckwerts, J., found in the taxpayer's favour, and the Crown appealed.

LORD EVERSHED, M.R., said that the trust for accumulation of income during the settlor's life showed an intention in conflict with the power of advancement conferred by s. 32 (1) of the Trustee Act of 1925. The Crown had rightly conceded that s. 69 (2) of the Act of 1925 did not require that the power of advancement conferred on trustees by s. 32 (1) should be expressly excluded, but that the power was inapplicable if, on a fair reading of the instrument in question, it could be said that the application of the power would be inconsistent with the purport of the instrument. In his judgment, it was quite apparent that the whole object of the instrument was to build up a capital sum which would be paid out to the wife or her children, if any, on the settlor's death. Accordingly, s. 32 (1) was inapplicable and, therefore, the claim for tax failed.

HARMAN and DONOVAN, L.JJ., delivered concurring judgments. Appeal dismissed.

APPEARANCES: Hon. *B. Bathurst*, Q.C., *E. Blanshard Stamp* and *Alan S. Orr* (*Solicitor of Inland Revenue*); *Sir Lynn Ungoed-Thomas*, Q.C., and *C. N. Beattie* (*Gouldens*).

[Reported by J. A. GRIFFITHS, Esq., Barrister-at-Law]

Chancery Division

INCOME TAX: ACTOR SELLING FILM RIGHTS

Shiner *v.* Lindblom (Inspector of Taxes)

Danckwerts, J. 10th November, 1959

Case stated by the General Commissioners of Income Tax.

The appellant, an actor, bought the film rights of a novel, intending to treat them as an investment so that the income therefrom might offset any loss of earnings as an actor. He had to abandon that intention and to sell the rights to a film-producing company because it was only on condition that he did so that the company would make the film. Pursuant to an agreement between him and the company, he himself " starred " in the film, with a ten weeks' guarantee and a share of profits. The commissioners held that the sum paid to the appellant for the copyright comprised part of the agreement between him and the company and as such formed part of the profits and gains arising to him in his profession as an actor and so fell to be assessed under Case II of Sched. D. The appellant appealed.

DANCKWERTS, J., said that the commissioners had reached the wrong conclusion. Although the purchase of the copyright and the engagement to act in the film were parts of one transaction, that did not necessarily make them the same thing, and it did not follow that the purchase price paid for the copyright was part of the remuneration or profits received by the appellant in respect of his profession as an actor. It was not part of his profession to dispose of the copyright, and the price received was something quite distinct from his remuneration as an actor and was the realisation of the

investment he had acquired. Nor was this transaction an adventure in the nature of trade under Case I of Sched. D; he had had no other transactions of this nature and was not trading in copyright but had acquired the copyright as an investment. He received a favourable offer and decided to realise the investment. The appellant was not subject to income tax in respect of the profit on the copyright, and there would be a declaration that the sum paid to him for it was not part of the profits or gains of his profession. Order accordingly.

APPEARANCES: *R. Buchanan-Dunlop* (*Howe & Rake*); *John Foster*, Q.C., and *Alan S. Orr* (*Solicitor of Inland Revenue*).

[Reported by Miss J. F. LAMB, Barrister-at-Law]

WILL: WHETHER ANNUITY HAS PRIORITY OVER PECUNIARY LEGACIES

In re Notley, deceased; Couch *v.* Rosewell and Others

Pennycuick, J. 30th January, 1961

Adjourned summons.

By his will dated 3rd January, 1956, a testator bequeathed a settled legacy of £30,000 to his daughter which was revoked by a codicil. By the will and codicils the testator directed his trustees to hold his residuary estate upon trust to pay an annuity of £1,200 to his daughter during her life and to pay several pecuniary legacies amounting to £11,200, and subject thereto to hold the capital and income upon trust for his great-nephews. He directed the trustees to appropriate an amount sufficient to answer the annuity out of income and declared that the income was to be the primary fund and the capital the secondary fund for this purpose. The testator died on 12th December, 1957, leaving residuary estate insufficient to provide for the annuity fund and to pay the pecuniary legacies. The trustees took out a summons to determine whether the annuity and the legacies were payable *pari passu* or whether the annuity took priority.

PENNYCUICK, J., said that the will contained no indication that the daughter's settled legacy had priority over the other legacies and there was, therefore, considerable ground for saying that the testator did not intend to give priority to the annuity. If he had intended to do so he should have used express terms and the failure to do so far outweighed the direction to set aside a fund for the payment of the annuity. The annuity, therefore, did not have priority. Order accordingly.

APPEARANCES: *H. E. Francis*, Q.C. (*McKenna & Co.*, for *Moger, Couch & Ligertwood*, Taunton); *J. L. Harman* (*Reed & Reed*, for *Clarke, Willmott & Clarke*, Taunton); *D. Gidley Scott* (*Langhams & Letts*, for *Scholfield Roberts & Co.*, Bridgewater); *J. P. Brookes* (*McKenna & Co.*, for *Moger, Couch & Ligertwood*, Taunton).

[Reported by Miss M. G. THOMAS, Barrister-at-Law]

COMPANY: WINDING UP: RIGHT OF PREFERENCE SHAREHOLDERS TO PARTICIPATE IN SURPLUS ASSETS

Dimbula Valley (Ceylon) Tea Co., Ltd. *v.* Laurie

Buckley, J. 2nd February, 1961

Adjourned summons.

Article 5 (*b*) of the articles of a company incorporated in 1896 with a capital then of £200,000 divided into 10,000 preference shares, 20,000 ordinary shares and 20,000 unclassified shares, all of £5 each, provided that the preference shareholders had the right in a winding up to be paid out of the surplus assets the amount paid up on the shares and any arrears of dividend in priority to the other shareholders, and to participate in any further "surplus assets" after payment of the amount paid up in respect of the other shares rateably with the other shareholders in proportion to the amount paid up on the preference and other shares. The company took out a summons to determine, *inter alia*, the meaning of "any further surplus assets."

BUCKLEY, J., said that "surplus assets" when first used in art. 5 (*b*) meant all the assets remaining after the creditors had been paid and the costs of winding up had been provided for but before any payment was made to the members: "any further surplus assets" meant that fund remaining after the specific payments mentioned in the paragraph had been made. He concluded that the preference shareholders were entitled to participate in a winding up rateably with the other shareholders in all the assets of the company which remained after paying the creditors, costs and arrears of the preference dividend and all paid-up capital.

APPEARANCES: *J. G. Monroe, P. J. Sykes, T. D. D. Divine* (*Stephenson, Harwood & Tatham*).

[Reported by Miss M. G. THOMAS, Barrister-at-Law]

Queen's Bench Division

ROAD TRAFFIC: COLLISION: DUTY OF CARE

Dawrant *v.* Nutt

Stable, J. 30th June, 1960

Action.

A motor-cycle combination driven by the plaintiff's husband, with the plaintiff as passenger, collided at night with the defendant's motor-car, injuring the plaintiff and killing her husband. Before the accident occurred, the front lights of the motor-cycle, to the knowledge of the plaintiff and her husband, had failed. In an action by the plaintiff, *inter alia*, for personal injuries, it was found that her husband and the defendant were equally to blame.

STABLE, J., said that, in relation to the highway, whether you were a passenger or a driver, you owed the same duty to other users of the highway to take reasonable care of yourself. In the present case the plaintiff owed a duty to the defendant and she was in breach of that duty in knowingly travelling in an unilluminated combination. It did not, however, follow that because the state of knowledge of the plaintiff and her husband were the same, *vis-à-vis* the defendant the proportion of negligence of each of them was the same and, in the circumstances, the plaintiff was only one-quarter to blame. Judgment for the plaintiff.

APPEARANCES: *John Garrard* (*R. N. Beswick*, Stoke-on-Trent); *Douglas Draycott* (*Abberley & Walker*, Stoke-on-Trent).

Reported by J. D. PENNINGTON, Esq., Barrister-at-Law]

SHIPPING: DEMURRAGE: OVERSTOWED CARGO

Government of Ceylon *v.* Société Franco-Tunisienne d'Armements-Tunis

Diplock, J. 11th November, 1960

Special case stated by an umpire.

By a charterparty a vessel was chartered to proceed to Antwerp and Bordeaux and there to load a part cargo of flour in bags for shipment to Colombo. The charterparty provided: "6. Time to commence at 2 p.m. if notice of readiness to discharge is given before noon . . . Time lost in waiting for berth to count as discharging time." The vessel duly proceeded to Antwerp and Bordeaux and loaded a quantity of flour in bags, and thereafter proceeded to Colombo via Port Said. At Port Said the vessel loaded a completion cargo much of which was overstowed above the flour cargo. The vessel arrived at and anchored in the outer anchorage of the port of Colombo at 06.12 hours on 18th October, 1956. Notice of readiness to discharge was given at 09.00 hours on

the same day. No berth was available until 06.15 hours on Wednesday, 24th October. Although the vessel was ready in every respect to begin discharging it would not have been possible to discharge the flour cargo which was overstowed until most of the Port Said cargo had been discharged. All the flour cargo was not freely accessible for discharging until 04.00 hours on Saturday, 27th October. The shipowners claimed demurrage.

DIPLOCK, J., said that there were two substantial matters in dispute between the parties. First: When did lay time begin to run? The owners contended that it began to run at 07.20 hours on 24th October, when the vessel was alongside the berth. The charterers, on the other hand, argued that it only began to run when access to all the holds was available, viz., at 04.00 hours on Saturday, 27th October. In his lordship's view readiness to discharge must refer to readiness to discharge the flour cargo and not readiness to discharge a cargo overstowed upon the flour cargo. Therefore, the charterers were right in their contention that lay time did not begin to run until all the flour cargo was accessible on 27th October. The next main point of contention on which a substantial amount of demurrage depended was whether or not the owners were entitled to add the time which they spent in fact waiting for a berth to the discharging time. As to this there was no reason to depart from what seemed to be the natural meaning of the words in cl. 6 of the charter-party that time lost as a result of waiting for a berth should count as extra time which it took the vessel to finish discharging this cargo as a result of waiting for a berth. Therefore, the owners were entitled to have counted for the purposes of calculating demurrage the time lost in waiting for a berth. Order accordingly.

APPEARANCES: *Michael Kerr* (*Holman, Fenwick & Willan*); *T. O. Kellock* (*T. L. Wilson & Co.*).

[Reported by J. D. PENNINGTON, Esq., Barrister-at-Law]

RESPONSIBILITY FOR CLEANSING BOTTLES OF "FARM BOTTLED MILK"

United Dairies (London), Ltd. *v.* Beckenham Corporation
Same *v.* E. Fisher & Sons, Ltd.

Lord Parker, C.J., Salmon and Winn, JJ.
26th January, 1961

Case stated by Bromley justices.

Milk distributors distributed raw milk bought by them from farmers and sold by them as such under the prescribed designation "Farm Bottled Milk." Under the Milk (Special Designation) (Raw Milk) Regulations, 1949, such milk must be bottled and capped at the farm at which it is produced and the distributor is forbidden to break the seals once it is capped. One bottle of such milk delivered by the distributors to a customer was found to contain ash. The milk in the bottle had been bought from certain farmers between whom and the distributors there existed the relationship of vendor and purchaser. After collection from a customer, the bottle, with others, was washed and cleaned by the distributors and placed upright and uncapped in a crate which was then taken to the farm in a lorry and stacked in the yard, whence it was taken to the filling room and filled and capped by the farmers' employees. The distributors were charged with failing to ensure that a bottle used for containing milk immediately before such use by them was in a state of thorough cleanliness, contrary to regs. 27 (1) and 34 of the Milk and Dairies (General) Regulations, 1959, and they preferred an information under s. 113 of the Food and Drugs Act, 1955, against the farmers alleging that any contravention by them of the regulations was due to the act or default of the farmers. The justices convicted the distributors and, holding that the procedure under s. 113 of the Act of 1955 did not apply to proceedings brought under the regulations, dismissed the information against the farmers. The distributors appealed.

LORD PARKER, C.J., said that, on its true interpretation, reg. 27 (1) of the regulations of 1959 dealt with the point of time immediately before a bottle was filled, and the obligation was placed on the person responsible for filling the bottle. The natural meaning of the words was that the farmer or distributor should ensure that every vessel used for containing milk should immediately before use for that purpose be in a state of thorough cleanliness. In the circumstances, the only person on whom that obligation rested was the farmer, and the distributors had been wrongly convicted. The farmers, in filling the bottle, were not acting as the distributors' agents, for that would mean that the distributors were delegating the bottling, which, under the regulations of 1949, they were forbidden to do, to the farmer who alone was responsible for it. There was a difference between proceedings brought in relation to an offence under the Act of 1955 and those in relation to an offence under the regulations, and s. 113 of the Act applied only to proceedings charging offences under the Act. The appeal against conviction would be allowed. The appeal from the dismissal of the information against the farmers failed.

SALMON and WINN, JJ., delivered concurring judgments. Order accordingly.

APPEARANCES: *Stephen Chapman*, Q.C., and *Maurice Ahern* (*Scott & Son*); *R. V. Cusack*, Q.C., and *James Miskin* (*R. Webster Storr*, Beckenham); *Christmas Humphreys*, Q.C., and *Brian Leary* (*Van Sandau & Co.*, for *Latter & Willett*, Bromley).

[Reported by Miss J. F. LAMB, Barrister-at-Law]

RIGHT TO KILL STRAY DOG

Workman *v.* Cowper

Lord Parker, C.J., Winn and Widgery, JJ.
2nd February, 1961

Case stated.

Unknown to anybody, a foxhound escaped from a farmer's pack and lived wild for three months round a common in Oxfordshire. No one knew at the time to whom the hound belonged. Attempts were made to catch it without success. The master of the South Berkshire hounds felt himself responsible for the hound, whether from his pack or not, and authorised the defendant to kill it. On 28th February, 1960, the defendant found the hound asleep and, believing he could not catch it, shot it dead while it was sleeping. An information was preferred against him by the chairman of the National Canine Defence League, alleging that he had maliciously killed the dog, the property of a person or persons unknown, contrary to s. 41 of the Malicious Damage Act, 1861. The justices found, *inter alia*, that the lambing season was approaching and a stray hound was likely to cause damage to livestock but no damage was known to have been done by the hound. They dismissed the information.

LORD PARKER, C.J., said that the law governing the right of a man to shoot a dog for the protection of his own property was settled. The onus of proof was on the defendant to justify shooting an attacking dog by establishing: (1) That, at the time of shooting, the dog was either (*a*) actually attacking the animals in question, or (*b*) if left at large would renew the attack so that the animals would be left subject to real and imminent danger; and (2) that either (*a*) there was in fact no practicable means, other than shooting, of stopping the present attack or preventing such renewal, or (*b*) that the defendant, having regard to all the circumstances in which he found himself, acted reasonably in regarding the shooting as necessary for the protection of the animals against attack. The present case was different, because here the man who shot the hound was not purporting to do so in defence of his own property. At the highest, he was doing it to protect other people's property. It was clear that this hound presented no real or imminent danger to the lambs

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or any other animals when it was shot. The most that could be said was that it might chase sheep which were in lamb or attack lambs when born. Accordingly, on the facts, no lawful excuse had been shown and the case must go back to the magistrates with a direction to convict.

APPEARANCES: *E. D. Sutcliffe*, Q.C., and *Henry Newman* (*Hyde, Mahon & Pascall*, for *Knight and Maudsley*, Maidenhead); *John Wood* (*Collins, Dryland & Thorowgood*, Reading).

[Reported by Mrs. E. M. WELLWOOD, Barrister-at-Law]

JUSTICE MUST BE SEEN TO BE DONE

***R. *v.* Manchester Justices; *ex parte* Burke**

Lord Parker, C.J., Winn and Widgery, JJ. 3rd February, 1961

Application for order of certiorari.

The applicant was convicted before Manchester justices of an offence under s. 34 of the Sexual Offences Act, 1956, in that she, being an agent or lessor of the landlord, with knowledge that certain premises were being used wholly or in part as a brothel, was wilfully a party to the use of such premises. She was fined £40. The case was heard before two justices. After the adjournment a third justice joined them but appeared to take no part in the proceedings. Counsel for the applicant made a submission of no case, whereupon the two justices conferred, and it appeared from an affidavit before the court that the third justice made an observation to the other two justices. The chairman rejected the submission. No evidence was called for the applicant and the two justices began to discuss the matter. The third justice appeared to be taking part in their deliberations and counsel for the applicant objected, whereupon the chairman said that they had already made their decision. Counsel renewed his objection, and after a few minutes' discussion between the three justices the chairman announced that the applicant was guilty.

LORD PARKER, C.J., said that there had been no real suggestion that the third justice interfered with the decision or was taking part as a justice in the decision. What was said was that this was a question whether the people present in court might reasonably have thought that he was taking part, and if that were the true position then, as this court had said on many occasions, the conviction must be quashed. Having regard to the facts, this was a case where it might reasonably have been thought by those present that the third justice was taking part in the deliberations of the other two. What did surprise him was that the two justices concerned had not seen fit in the circumstances to put in an affidavit by way of explanation. One would have thought, to say the least, that they should do it if only out of courtesy to the court.

WINN and WIDGERY, JJ., agreed. Application allowed.

APPEARANCES: *I. R. Taylor* (*Edward F. Iwi*, for *S. Goldstone and Co.*, Manchester); the respondents did not appear and were not represented.

[Reported by Mrs. E. M. WELLWOOD, Barrister-at-Law]

Probate, Divorce and Admiralty Division

DIVORCE: CONDONATION: VOLUNTARY ACTS OF SEXUAL INTERCOURSE: WHETHER CONDONATION PRESUMED AGAINST WIFE

Morley *v.* Morley

Lord Merriman, P., and Cairns, J. 2nd December, 1960

Appeal from Bromley justices.

A wife left her husband and issued a complaint on the ground of his persistent cruelty and wilful neglect to provide reasonable maintenance. During the course of the hearing she intimated that she was willing to return to the husband on conditions to which he agreed. On 27th June, 1960, she rejoined the husband, who, almost at once, sought to repudiate one of the conditions. The wife remained with the husband until 29th June, 1960, during the whole time attempting to persuade the husband to adhere to the terms of the agreement and having sexual intercourse with him voluntarily on two occasions. The husband refused to withdraw his repudiation. At the resumed hearing of the wife's complaint it was alleged that she had, by her conduct between 27th and 29th June, condoned the husband's cruelty. The justices made an order on both grounds. The husband appealed against the finding of persistent cruelty. At the hearing of the appeal his case was directed only to the issue of condonation.

LORD MERRIMAN, P., said that it was argued that the effect of the decision in *Baguley* v. *Baguley* (1957), *The Times*, 9th October, was that unless a wife could establish that one of the conditions outlined by the Judge Ordinary in *Keats* v. *Keats* (1859), 1 Sw. & Ir. 334, applied, her voluntary submission to sexual intercourse was as conclusive of condonation as the same circumstances would be against the husband. With the greatest respect to Hodson, L.J., he (his lordship) knew of no authority except *Baguley* v. *Baguley* itself which went so far as that, nor was counsel able to provide any such authority. He had always understood that the Judge Ordinary was giving illustrations of the kind of reason for which wives in general were treated less strictly than husbands with regard to sexual intercourse as proof of condonation, but not that he was laying down the law that, unless the wife in any particular case could show either that she was hardly her own mistress, or that she had not the option of going away, or that she had no place to go to, or no person to receive her, or no funds to support her, sexual intercourse would be as conclusive on her part as it would be in the case of a husband. An explanation that had been given for treating wives less strictly than husbands in this respect had been the biological fact that wives could, but husbands could not, become pregnant, and the extreme prejudice which the wife must suffer thereby. Manifestly, if that was a valid ground of distinction it would be impossible to say in the case of a particular wife that unless she became pregnant she would be taken to have condoned. The principle that the conclusion of condonation by an innocent wife of her husband's previous misconduct was not in all cases so strictly drawn from the fact of subsequent intercourse was too well settled to be changed. The decision in *Baguley* v. *Baguley* was based upon the finding that there had been a complete agreement for reconciliation, so far as that could be effected by word of mouth, and that the sexual intercourse was treated as the " something " amounting to a reinstatement necessary to convert imperfect forgiveness by words into condonation, and was therefore conclusive in the circumstances of that case. In this case there was no such agreement. The wife had, therefore, not condoned the husband's cruelty and the appeal must be dismissed.

CAIRNS, J., agreed that the appeal must be dismissed.

APPEARANCES: *J. T. Molony*, Q.C., *K. M. Willcock* and *F. Laskey* (*Judge & Prestley*); *A. Cripps*, Q.C., and *B. Knightley* (*Weller & Birrell*).

[Reported by Miss ELAINE JONES, Barrister-at-Law]

Court of Criminal Appeal

CARRYING OFFENSIVE WEAPON: ONUS OF PROOF

R. *v.* Petrie

Lord Parker, C.J., Salmon and Winn, JJ. 25th January, 1961

Appeal against conviction.

The appellant was charged with being in possession of an offensive weapon in a public place, contrary to s. 1 of the

Prevention of Crime Act, 1953, the case for the prosecution being, *inter alia*, that while in a street he had drawn a cut-throat razor from his pocket. The chairman directed the jury, in effect, that the mere carrying of the razor in a street was necessarily the possession of an offensive weapon in a public place. The jury convicted the appellant on that count, but acquitted him on a second count of assault occasioning actual bodily harm.

SALMON, J., giving the judgment of the court, said that the chairman's direction was wrong. The Act envisaged two classes of offensive weapons: (i) articles offensive *per se*, when the onus shifted to the defence to show lawful authority or reasonable excuse, and (ii) articles not themselves offensive, but which could be used as such, when the onus was on the prosecution to show that the article was being carried with intent to injure. Although the fact that a man was found carrying a razor in a public place was some evidence of the intent necessary to make it an offensive weapon within the Act, it was a matter for the jury. In the circumstances, it was unsafe to allow the conviction to stand. Appeal allowed.

APPEARANCES: *S. Stout-Kerr* (*Registrar, Court of Criminal Appeal*); *H. J. Leonard* (*Solicitor for the Metropolitan Police*).

[Reported by Miss J. F. LAMB, Barrister-at-Law]

PREVENTIVE DETENTION: PROOF OF PREVIOUS SCOTTISH CONVICTIONS

R. *v.* Clarkson

Lord Parker, C.J., Salmon and Winn, JJ. 30th January, 1961

Appeal against sentence.

The appellant pleaded guilty at London Sessions to being found by night in a building with intent to steal and was sentenced to seven years' preventive detention. The three previous convictions set out in the notice under s. 23 of the Criminal Justice Act, 1948, which qualified the appellant for preventive detention were all convictions in Scotland. There was no evidence before the trial judge that those convictions under Scottish law were (1) punishable on indictment, (2) punishable with imprisonment for a term of two years or more.

LORD PARKER, C.J., reading the judgment of the court, said that the point was a narrow one. Was a sentence of preventive detention good if in fact the conditions in s. 21 (2) (*b*) of the Act of 1948 turned out to have been fulfilled, or did, at any rate, prima facie evidence have to be given in the trial court before such a sentence could be imposed? The court had with considerable reluctance come to the conclusion that the latter view was correct. It seemed to the court that the correct view was that, whereas the fact of the convictions had to be strictly proved in accordance with s. 23 (1) of the Act, at any rate prima facie proof had to be given of the other matters laid down as qualifying conditions in s. 21 (2) (*b*). In those circumstances the court had no option but to set aside the sentence of preventive detention and substitute a sentence of eighteen months' imprisonment.

APPEARANCES: *M. D. L. Worsley* (*Registrar, Court of Criminal Appeal*); *H. J. Leonard* (*The Solicitor, Metropolitan Police*).

[Reported by Miss C. J. ELLIS, Barrister-at-Law]

Worcester Consistory Court

ECCLESIASTICAL LAW: FACULTY: WHETHER MINISTER OF AVIATION A COMPETENT PETITIONER

***In re* St. James's, Bishampton**

***In re* St. Edburga's, Abberton**

Boydell, Chancellor. 29th September, 1960

Petitions for faculties.

The Minister of Aviation sought a faculty to place on the tower of Bishampton Church a mast, with a warning light affixed to it, and a faculty to remove the spire of Abberton Church. Both churches were close to Pershore airfield, which was Crown property and was used by aircraft belonging to the Crown. Neither petition was opposed. At the hearing there arose a preliminary point of law, namely, whether the Minister was a competent petitioner.

BOYDELL, Ch., said that for the purpose of these petitions both the airfield and the aircraft could be regarded as the property of the Minister. It had been argued on behalf of the Minister that he had a sufficient personal interest in that his aircraft were engaged in their lawful errands from Pershore airfield over the diocese in general, and the parishes and churches of Bishampton and Abberton in particular, and that those two churches constituted a danger to the aircraft. In all the circumstances, the Minister had a sufficient personal interest to entitle him to present these petitions. On the evidence, the Chancellor granted the Bishampton petition, but, holding that the risk of serious danger was not great enough to justify the removal of the church spire, refused the Abberton petition.

APPEARANCES: *J. F. E. Stephenson*, Q.C. (*Treasury Solicitor*); *E. Garth Moore* (*Lee, Bolton & Lee*), as *amicus curiæ*.

[Reported by D. R. ELLISON, Esq., Barrister-at-Law]

BOOKS RECEIVED

Wilshere's Criminal Procedure. Fourth Edition. By H. A. PALMER, M.A. (Oxon), of the Inner Temple, Barrister-at-Law, Assistant Master of the Supreme Court, Registrar of the Courts-Martial Appeal Court and Assistant Registrar of the Court of Criminal Appeal, and HENRY PALMER, M.A. (Oxon), of the Inner Temple, Barrister-at-Law. pp. xxxii and (with Index) 338. 1961. London: Sweet & Maxwell, Ltd. £1 10s. net.

The New Law of Betting and Gaming. Reprinted from Butterworth's Annotated Legislation Service. By J. P. EDDY, Q.C., and L. L. LOEWE, M.A., of the Middle Temple and the South-Eastern Circuit, Barrister-at-Law. pp. x and (with Index) 290. 1961. London: Butterworth & Co. (Publishers), Ltd. £2 5s. net.

Terrell and Shelley on the Law of Patents. Tenth Edition. By K. E. SHELLEY, Q.C. pp. liv and (with Index) 660. 1961. London: Sweet & Maxwell, Ltd. £6 6s. net.

The Jubilee Lectures of the Faculty of Law, University of Sheffield. Edited by O. R. MARSHALL, M.A., Ph.D., Dean of the Faculty of Law. pp. xv and 144. 1960. London: Stevens & Sons, Ltd. £1 5s. net.

Principles of Local Government Law. First Supplement. (To 1st November, 1960.) By C. A. CROSS, M.A., LL.B., of Gray's Inn, Barrister-at-Law, Town Clerk of the Borough of Prestwich, Lancs. 1961. London: Sweet & Maxwell, Ltd. 7s. 6d., post free.

Honours and Appointments

Mr. JOHN ELSE, M.B.E., solicitor, of Birmingham, has been appointed Chairman of the Traffic Commissioners and Licensing Authority for the West Midlands.

Mr. PERCEVAL ANTHONY THOMAS HILDEBRAND HARMSWORTH has been appointed Deputy Chairman of the Court of Quarter Sessions for West Sussex.

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Hythe, Saltwood, Romney Marsh and District.—F. W. BUTLER, 86 High Street, Hythe. Tel. 66608.
Maidstone and District.—COUCHMAN & SON Chartered Surveyors, Chartered Auctioneers and Estate Agents, 42 King Street. Tels. 2558 and 2591.
Maidstone and Mid-Kent.—EVENS & MATTA, A.A.I., M.R.S.H., 70 King Street, Maidstone. Tel. 51283.
Margate.—CLARKE & CRITTENDEN, F.A.L.P.A., Auctioneers and Valuers. Offices: Cliftonville and Westbrook.
Orpington, Petts Wood and West Kent.—MULLOCK (A. F.) & GOWER (A. F. Mullock, J.P., F.A.L.P.A., C. H. Gower, F.A.I.) 161 High Street. Tel. Orp. 25681/2. And Station Square, Petts Wood. Tel. Orp. 23444.
Ramsgate.—LESLIE HOGBIN, F.R.I.C.S., Chartered Surveyor, Auctioneer, Valuer and Estate Agent 50 Queen Street. Tel. Thanet 53222/3

(*Continued on p. xviii*)

REGISTER OF
Auctioneers, Valuers, Surveyors, Land and Estate Agents

KENT (*continued*)

Ramsgate and District.—HOLNESS & OVENDEN, F.A.I., Chartered Auctioneers and Estate Agents, Valuers and Surveyors. Estate House, 73 High Street, Ramsgate. Tel. Thanet 52206/7. Established 1838.
Sandwich and East Kent.—G. C. SOLLEY & CO. Offices : 50 King Street, Sandwich. Tel. 3227.
Sevenoaks.—KEMP & THOMAS, F.A.L.P.A., Estate Agents and Valuers. 11a London Road (Tel. 2916).
Tenterden and the Weald of Kent.—HATCH AND WATERMAN, F.A.I. (Est. 1830), Chartered Auctioneers and Estate Agents. Tenterden. Tel. 33.
Tonbridge and District.—NEVE & SON, F.A.I., 146 High Street, Tonbridge. Tel. 3223.
Tunbridge Wells.—DILNOTT STOKES, Chartered Surveyors and Auctioneers, 17 Mount Pleasant. Tel. 3000/1.
Welling.—WM. PORTER & CO., LTD., 28 Falconwood Parade, The Green. Tel. Bexleyheath 2977.
Westgate-on-Sea.—BENEFIELD & CORNFORD, Town Hall Buildings. Thanet 31010.

LANCASHIRE

Blackpool and District.—AIREYS', Chartered Auctioneers and Estate Agents, Valuers and Surveyors, 18 Dickson Road, Blackpool. Tel. 22225/6.
Blackpool and Fylde Coast.—J. ENTWISTLE & CO., Auctioneers, Valuers and Estate Agents, Station Chambers, 2 Dickson Road, Blackpool. Tel. 20093/4.
Grange-over-Sands.—MICHAEL C. L. HODGSON, Auctioneers and Valuers. Tel. 2253.
Liverpool.—BOULT, SON & MAPLES, 5 Cook Street. Tel. Central 9941 (7 lines). And at West Kirby.
Liverpool.—SMITH & SONS (Est. 1840), Valuers, etc., 6 North John Street, Central 9386. And at Birkenhead.
Liverpool and District.—JOS. RIMMER & SON, 48 Castle Street, Liverpool, 2. Tel. Central 3068. Chartered Surveyors, Chartered Auctioneers and Estate Agents.
Liverpool and Wirral.—T. MARTIN BROWN, F.A.I., Valuer & Estate Agent, Coopers Buildings, Church Street, Liverpool, 1. Tel. Royal 3373/4 and 3 Garston Old Road, Liverpool, 19. Tel. Garston 358.
Manchester.—ALFRED H. GARDNER & SON, F.A.I., Chartered Auctioneers and Estate Agents, 56 Mosley Street. Tel. Central 8985/6. And at Cheadle Hulme.
Manchester.—CLAYTON, SON & CROWTHER, Auctioneers, Valuers and Estate Agents, 76 Mosley Street, Manchester, 2. Tel. Cen. 4943/4.
Manchester.—STUART MURRAY & CO., Auctioneers, etc., 64a Bridge Street. Tel. Blackfriars 5747. And at Altrincham.
Manchester and Oldham.—LESLIE D. CLEGG MORGAN & CO., Chartered Surveyors, Specialists in Town Planning, Rating and Compensation, Prudential Buildings, Union Street, Oldham. Tel. MAin (Oldham) 6401/3. And at 65 Princess Street, Manchester, 2. Tel. Central 7755.
Preston.—E. J. REED & SONS, F.A.I., Chartered Auctioneers and Estate Agents, 47 Fishergate. Tel. 3249.
Rochdale.—ROSSALL, DALBY & PARKER, Auctioneers and Valuers, 5 Blackwater Street. Tel. 3677.
Rochdale and District.—R. BIRTWELL & SON, Chartered Auctioneers and Estate Agents, Valuers, 5 Baillie Street. Tel. 2826.
Rochdale and District.—SHEPHERD LUMB & CO., Auctioneers, etc. The Public Hall, Baillie Street. Tel. 3826.

LEICESTERSHIRE

Leicester.—DONALD BOYER, F.A.I., Chartered Auctioneer & Estate Agent, Valuer-Mortgage, Probate Insurance, Northampton Street. Tel. 21564 (and Rugby).
Leicester and County.—RANDLE & ASPELL (F. E. J. Randle, F.V.I., C. G. Hale, F.A.I., A.A.L.P.A., G. H. Aspell, A.R.I.C.S., F.A.I., M.R.San.I.), 74 Halford Street. Tel. 5137/8.
Market Harborough.—HOLLOWAY, PRICE & CO., Est. 1809. Chartered Surveyors, Chartered Auctioneers. Tel. 2411.

LINCOLNSHIRE

Grantham and District.—BAILEY & AMBLER, Chartered Auctioneers and Estate Agents, Westminster Bank Chambers, Grantham, Lincs. Tel. 418 (2 lines).
Scunthorpe and District.—SPILMAN, GLASIER AND LONSDALE, Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 72 Mary Street, Scunthorpe. Tel. 3803. Est. over 75 years.
Spalding.—S. & G. KINGSTON, F.A.I., Auctioneers, etc., Hall Place Chambers. Tel. 2011.

MIDDLESEX

Edgware.—E. J. T. NEAL, F.R.I.C.S., F.A.I., 39 Station Road. Tel. EDG. 0123/4.
Enfield and North London.—CAMPION & DICKINS, Surveyors, Valuers, etc., 28 Little Park Gardens, Enfield. Enfield 1224/5.

MIDDLESEX (*continued*)

Harrow.—CORBETT ALTMAN & CO., F.R.I.C.S., F.A.I., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 40 College Road, Harrow. Tel. Harrow 6222. Also Rating, Compensation and Planning Surveyors.
Harrow.—E. BECKETT, F.A.I., Surveyor, Chartered Auctioneer and Estate Agent, 7 College Road, Harrow. Tel. Harrow 5216. And at Sudbury, Wembley, North Harrow and Moor Park, Northwood.
Harrow.—P. N. DEWE & CO., See " London Suburbs " Section. Established 1925.
Harrow.—WARNER & CO. (T. A. Warner, F.A.L.P.A.), Surveys, Valuations, etc., Specialists in Urban Estate Management, 51 Station Road, North Harrow. Tel. Harrow 9636/7/8.
Harrow.—G. J. HERSEY AND PARTNER, Chartered Auctioneers and Surveyors, Rating and Factory Valuers, 44 College Road, Harrow, Middlesex, Tel. HARrow 7484; 368 Bank Chambers, 329 High Holborn, W.C.1.
Harrow.—Messrs. JOHN SEARCY (J. H. Searcy, M.Inst.R.E., F.A.I., Chartered Auctioneer and Estate Agent; J. Gray, F.A.L.P.A., Incorporated Auctioneer and Estate Agent), 21 College Road, Harrow. Tel. Harrow 9323/4. Adjoining Harrow-on-the-Hill Metro Station.
Harrow and District.—BARR & MEAD (C. Grainger, F.A.L.P.A., M.R.San.I.), 202 Northolt Road, S. Harrow. (Tel. Byron 1023 (5 lines)), and 15 College Road Harrow (Tel. Harrow 5178 (3 lines)). Also at Ruislip and Pinner.
Hayes.—KEVIN & FIELD, LTD. (Lister S. Camps, F.F.S., F.V.I., M.R.S.H.), Grange Chambers, Uxbridge Road. Tel. Hayes 3691/2.
Hounslow.—ROPER, SON & CHAPMAN, Auctioneers, Surveyors, etc., 162 High Street. Tel. HOU 1184.
Moor Park and Northwood.—E. BECKETT, F.A.I., Surveyor, Chartered Auctioneer and Estate Agent, MOOR PARK ESTATE OFFICE, Moor Park Station, Northwood. Tel. Northwood (NH2) 4131. And at Harrow, North Harrow and Sudbury, Wembley.
Northwood.—GILBERT LUCK, F.A.L.P.A., Surveyors and Valuers, 58 Green Lane, Northwood. Tel. 2352/3/4, and 111 Pinner Road, Northwood Hills.
Northwood and Pinner.—SWANNELL & SLY, 3 Maxwell Road, Northwood. Tel. 19. Valuers, Auctioneers, etc.
Pinner and District.—BARR & MEAD (C. Grainger, F.A.L.P.A., M.R.San.I.), 2 High Street, Pinner, PINner 7727 and 7800. Also at South Harrow, Harrow and Ruislip.
Pinner (Hatch End).—BRODIE, MARSHALL & CO., Auctioneers, Valuers and Estate Agents, 339 Uxbridge Road, Hatch End. Telephone Hatch End 2238 and 2239.
Ruislip and District.—BARR & MEAD (C. Grainger, F.A.L.P.A., M.R.San.I.), 108 High Street, Ruislip. Tel. Ruislip 2215 and 4583. Also at South Harrow, Harrow and Pinner.
Ruislip, Ickenham and District.—JOHN MEACOCK AND CO., 123/125 High Street, Ruislip. Tel. Ruislip 3072/3/4. And opposite the Church, Ickenham. Tel. Ruislip 5526 and 9824.
Southall and Greenford.—AUSTIN FARR & CO., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 11 South Road, Southall. SOU 6555 (5 lines). 45 The Broadway, Greenford. WAX 4642/4438.
Wembley Park.—LLOYDS (Principal D. J. Westmore, F.R.I.C.S., M.R.San.I.), Chartered Surveyors, Auctioneers and Valuers, 13 Bridge Road. Tel. Arnold 1123/4.
West Drayton and Yiewsley.—R. WHITLEY & CO., Chartered Auctioneers and Estate Agents, 40 Station Road. Tel. W. Drayton 2185.

NORFOLK

Cromer.—R. I. WORTLEY, F.R.I.C.S., Chartered Surveyor, etc., 15 Church Street. Tel. Cromer 2069.
Norwich.—ALDRIDGE & PARTNERS, 22 Surrey Street, Surveyors and Estate Agents. Tel. Norwich 26517/8.
Norwich.—CLOWES, NASH & THURGAR, Est. 1848 (H. M. Thurgar, F.A.I., R. F. Hill, F.A.L.P.A., C. M. Thurgar, A.A.I.), 6 Tombland. Tel. 27261/2.
Norwich.—J. E. TAYLOR, Auctioneer and Estate Agent, 25 Tombland. Tel. 26638.
Norwich and East Anglia.—K. H. FIELDING & SON (J. L. Fielding, F.R.I.C.S., F.A.I.), Chartered Surveyors, etc., 1 Upper King Street, Norwich. Tel. 22980.
West Norfolk.—CRUSO & WILKIN, Chartered Auctioneers and Estate Agents, 27 Tuesday Market Place, King's Lynn. Tel. King's Lynn 3111/2.

NORTHAMPTONSHIRE

Northampton and Daventry.—MERRY, SONS & CO., LTD., Auctioneers, Valuers and Estate Agents, 9 Fish Street, Northampton. Tel. 136. 33 Sheaf Street, Daventry. Tel. 336.
Northampton and District.—WOODS & CO., F.A.I., Chartered Auctioneers and Estate Agents, Valuers, 18 Castilian Street, Northampton. Tel. 3300/1. Established 85 years.
Peterborough and District.—DAKING & DAKING. Est. 1887. Auctioneers, Valuers, Surveyors and Estate Agents, Broadway, Peterborough. Tel. 5245/6.
Peterborough and District.—FOX & VERGETTE, Auctioneers, Valuers, Surveyors and Estate Agents, 16 Priestgate. Tel. 4261/2. Est. over 150 years.
Peterborough and Adjoining Counties.—NORMAN WRIGHT & PARTNERS, Surveyors, 26 Priestgate, Peterborough. Tel. 5695/6.

(*Continued on p. xix*)

NORTHUMBERLAND

Newcastle upon Tyne, covering the North.—HINDMARSH, HEPPELL & BOURN (Est. 1862), Chartered Auctioneers and Estate Agents, Surveyors, 61 Westgate Road, Newcastle upon Tyne. And at Wallsend-on-Tyne.

NORTHUMBERLAND AND DURHAM

HINDMARSH & PARTNERS, Chartered Surveyors, Valuers, Auctioneers and Estate Agents, 49 Park View, Whitley Bay (Tel. 2351/2), 107 Northumberland St., Newcastle (Tel. 61008) (4 lines)). And at Gateshead and Alnwick.
Newcastle.—DAVID A. LARMOUR & SON, F.R.I.C.S., F.A.I., Saville Row. Tel. Newcastle 20727/8.
WALLHEAD GRAY & COATES, Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 84 Pilgrim Street, Newcastle. (Tel. 27471/2.) 75 West Street, Gateshead. (Tel. 72197.) 7 Priestpopple, Hexham. (Tel. 302.) 26 Frederick Street, Sunderland. (Tel. 2544.)

NOTTINGHAMSHIRE

Newark.—EDWARD BAILEY & SON, F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 7 Kirkgate, Newark. Tel. 39.
Nottingham.—ROBERT CLARKE & CO., Chartered Surveyors and Rating Valuers, Oxford Street. Tel. 42534/5.
Nottingham.—WALKER, WALTON & HANSON, Chartered Surveyors and Valuers, Chartered Auctioneers and Estate Agents, Byard Lane. Est. 1841. Tel. Nottingham 54272 (7 lines).
Retford.—HENRY SPENCER & SONS, Auctioneers, 20 The Square, Retford, Notts. Tel. 531/2. And at 4 Paradise Street, Sheffield. Tel. 25206. And 91 Bridge Street, Worksop. Tel. 2654.

OXFORDSHIRE

Bicester, Thame and Oxford.—E. P. MESSENGER & SON, Chartered Surveyors, Auctioneers, Valuers, etc. Thame 263/4; Bicester 10; and Oxford 47281.
Oxford and District.—BUCKELL & BALLARD. Est. 1887. R. B. Ballard, F.A.L.P.A., H. I. F. Ryan, F.R.I.C.S., F.A.I., H. S. Ballard, A.R.I.C.S., F.A.I., 58 Cornmarket Street, Oxford. Tel. 44151, and at Wallingford, Berks. Tel. 3205.
Oxford, Banbury and surrounding districts.—E. J. BROOKS & SON, F.A.I. (Established 1840), Chartered Auctioneers and Estate Agents, Surveyors and Valuers, " Gloucester House," Beaumont Street, Oxford. (Tel. 4535/6) and 54 Broad Street, Banbury (Tel. 2670).
Thame and District.—PERCY BLACK & CO., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 60 North Street. Tel. 288.

SHROPSHIRE

Craven Arms.—JACKSON & McCARTNEY, Chartered Auctioneers, Valuers and Estate Agents. Tel. 2185.
Shrewsbury.—HALL, WATERIDGE & OWEN, LTD., Chartered Auctioneers, Valuers and Estate Agents. Tel. 2081.
Shrewsbury and South Shropshire.—DEAKIN COTTERILL, 8 Wyle Cop, Shrewsbury, Auctioneers, Estate Agents and Valuers. Tel. 5306 and 2313. And at Church Stretton.
Wellington.—BARBER & SON, Auctioneers, Valuers, Surveyors and Estate Agents, 1 Church Street. Tel. 27 and 444 Wellington.
Whitchurch.—JOSEPH WRIGHT, Auctioneers, Valuers and Estate Agents, 16 Watergate Street, Whitchurch. Tel. 2962 and 2157.

SOMERSET

Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903), Surveyors, Auctioneers and Estate Agents, Special Probate Department, New Bond Street Chambers, 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.
Bath and District.—Estate Agents, Auctioneers and Valuers, Valuations for Probate, Mortgage, etc. HALLETT & CO., 3 Wood Street, Queen Square, Bath. Tel. 3779 and 2118.
Bath and District.—JOLLY & SON, LTD. (Est. 1825.) Estate Agents and Valuers, Funeral Directors, Probate Valuers, Chattell Auction Rooms, Milsom Street, Bath. (Tel. 3201.)
Bath, Bristol and Districts.—LOUIS POWELL & CO., incorporated Auctioneers, Estate Agents and Valuers, 1 Princes Buildings, Bath. Tel. 2127.
Bath and the West.—CRISP'S ESTATE AGENCY (C. Cowley, F.V.I., Incorporated Surveyor and Valuer, J. L. Cowley, A.A.I., Chartered Auctioneer and Estate Agent) (Est. 1879), Abbey Chambers, York Street, Bath. Tel. 3606 and 61706.
Crewkerne.—25 miles radius.—TAYLOR & CO., Auctioneers, Valuers, Surveyors, Estate Agents. Tel. 546.
Taunton and District.—C. R. MORRIS, SONS AND PEARD, Land Agents, Surveyors, Valuers, Auctioneers, 6a Hammet Street. Tel. 2546. North Curry. Tel. 319.
Weston-super-Mare.—LALONDE BROS. & PARHAM (Est. 1848), 23 Waterloo Street (Tel. 4500); and at Bristol.

IN WESTMINSTER AND WHITEHALL

HOUSE OF LORDS

PROGRESS OF BILLS

Read First Time :—

Agricultural Research, etc. (Pensions) Bill [H.C.] [2nd February.

Flood Prevention (Scotland) Bill [H.C.] [2nd February.

In Committee :—

Electricity (Amendment) Bill [H.C.] [2nd February.

Public Health Bill [H.L.] [30th January.

HOUSE OF COMMONS

A. PROGRESS OF BILLS

Read First Time :—

Criminal Justice Act, 1948 (Amendment) Bill [H.C.] [31st January.

To amend section eight and section eleven of the Criminal Justice Act, 1948 ; and for purposes connected therewith.

Crown Estate Bill [H.C.] [1st February.

To make new provision in place of the Crown Lands Acts, 1829 to 1936, as to the powers exercisable by the Crown Estate Commissioners for the management of the Crown Estate, to transfer to the management of the Minister of Works certain land of the Crown Estate in Regent's Park and to extend or clarify the powers of that Minister in Regent's Park, to amend the Forestry (Transfer of Woods) Act, 1923, as it affects the Crown Estate, to amend the law as to escheated land, and for purposes connected therewith.

National Health Service Bill [H.C.] [2nd February.

To make further provision with respect to charges for the provision of dental and optical appliances and dental services under the National Health Service.

Zetland County Council (Symbister Harbour) Order Confirmation Bill [H.C.] [31st January.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to Zetland County Council (Symbister Harbour).

Read Second Time :—

Army and Air Force Bill [H.C.] [2nd February.

Birmingham Corporation Bill [H.C.] [30th January.

Clerical Medical and General Life Assurance Bill [H.C.] [30th January.

Court of Chancery of Lancaster (Amendment) Bill [H.C.] [3rd February.

To amend the Court of Chancery of Lancaster Act, 1952.

Dartford Tunnel Bill [H.C.] [30th January.

Holy Trinity Brompton Bill [H.C.] [31st January.

Hyde Park (Underground Parking) Bill [H.C.] [1st February.

Mersey Tunnel Bill [H.C.] [30th January.

Newport Corporation Bill [H.C.] [1st February.

Port of London Bill [H.C.] [30th January.

River Ravensbourne &c. (Improvement and Flood Prevention) Bill [H.C.] [30th January.

Shell Brazil Bill [H.C.] [30th January.

Stationers and Newspaper Makers' Company Bill [H.C.] [30th January.

White Fish and Herring Industries Bill [H.C.] [31st January.

Winchester Cathedral Close Bill [H.C.] [30th January.

Read Third Time :—

Cardiff Corporation Bill [H.L.] [2nd February.

Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Bill [H.C.] [2nd February.

Overseas Service Bill [H.C.] [2nd February.

B. QUESTIONS

INCOME TAX : SCHEDULE A EXPENSES

THE CHANCELLOR OF THE EXCHEQUER gave the following details as to the admissibility or otherwise of certain domestic expenditure within maintenance claims against Sched. A income tax. He emphasised that a distinction was drawn between expenditure incurred as owner and expenditure incurred as occupier.

Garden walls, fences and gates

Cost of repairs to boundary walls, boundary fences and entrance gates—admitted.

Cost of replacement of boundary walls, boundary fences and entrance gates which are in need of repair—admitted, up to the estimated cost of repairs.

Otherwise, not admitted.

Drains, downspouts, gutters, slating and tiling

Cost of repairs—admitted.

Cost of replacement of such items which are in need of repair—admitted.

Re-scarifying or re-gravelling garden drives or paths

Entrance drives and entrance paths—admitted.

Others—not admitted. [31st January.

INCOME TAX: ACCOUNTANTS' FEES

THE CHANCELLOR OF THE EXCHEQUER said that in general accountancy fees for preparing a maintenance claim were admissible expenses of management for the purposes of such a claim, and normal fees for preparing business accounts were an allowable business expense. Except under those heads, accountancy fees did not rank for tax relief. [31st January.

LAWYERS SHARING TELEPHONES

Asked why lawyers had not been exempted from sharing their home telephone numbers, the POSTMASTER-GENERAL replied that since 1948 there had been an obligation on residential subscribers to share their lines if asked to do so. Many business and professional people were sharing their home telephones, and he was afraid he would not be justified in treating lawyers differently. The matter had been the subject of discussion and correspondence with The Law Society on a number of occasions in the past, the last being at the end of 1959. [1st February.

STATEMENTS BY ACCUSED PERSONS

THE HOME SECRETARY declined to take powers to make it obligatory for the police to supply to the legal adviser of an accused person, immediately on request, a copy of any statement alleged to have been made by such person to the police whether or not the matter had been referred by the police force in question to the Director of Public Prosecutions. He said that it was the practice of the police to supply on request to the legal representative of an accused person a copy of any statement that he might have made, except in the rare cases in which, in the opinion of the chief officer of police, there were good reasons for thinking that to comply with the request would impede the course of justice. It was for the Director of Public Prosecutions to consider any such request where he was responsible for the prosecution. [2nd February.

STATUTORY INSTRUMENTS

Act of Sederunt (Sheriff Court Betting and Gaming Act Appeals), 1961. (S.I. 1961 No. 124 (S. 3).) 5d.

British Commonwealth and Foreign Parcel Post Amendment (No. 2) Warrant, 1961. (S.I. 1961 No. 143.) 5d.

British Commonwealth and Foreign Post Amendment (No. 1) Warrant, 1961. (S.I. 1961 No. 142.) 5d.

British Postal Agencies (Commonwealth and Foreign Post) Amendment (No. 1) Warrant, 1961. (S.I. 1961 No. 144.) 5d.

British Postal Agencies Money Order Warrant, 1961. (S.I. 1961 No. 140.) 6d.

Civil Aviation (Licensing) (Amendment) Regulations, 1961. (S.I. 1961 No. 145.) 5d.

Civil Aviation (Transitional Licences) Order, 1961. (S.I. 1961 No. 147.) 6d.

County of Devon (Electoral Divisions) Order, 1961. (S.I. 1961 No. 165.) 5d.

County of Oxford (Electoral Divisions) Order, 1961. (S.I. 1961 No. 166.) 5d.

County of Worcester (Electoral Divisions) Order, 1961. (S.I. 1961 No. 146.) 5d.

Import Duties (General) (No. 1) Order, 1961. (S.I. 1961 No. 128.) 4d.

Import Duties (Temporary Exemptions) (No. 1) Order, 1961. (S.I. 1961 No. 129.) 5d.

Import Duty Drawbacks (No. 1) Order, 1961. (S.I. 1961 No. 130.) 5d.

Inland Post Warrant, 1961. (S.I. 1961 No. 141.) 1s. 11d.

Irwell Valley Water Board Order, 1961. (S.I. 1961 No. 111.) 5d.

Isles of Scilly (Housing) Order, 1961. (S.I. 1961 No. 136.) 5d.

London Traffic (Prescribed Routes) (Wandsworth) Regulations, 1961. (S.I. 1961 No. 163.) 5d.

Money Order Warrant, 1961. (S.I. 1961 No. 139.) 8d.

National Health Service (Functions of Regional Hospital Boards) (Scotland) Amendment Regulations, 1961. (S.I. 1961 No. 125 (S.4).) 4d.

National Insurance (Non-participation—Benefits and Schemes) Amendment Regulations, 1961. (S.I. 1961 No. 137.) 5d.

National Insurance (Non-participation—Continuity of Employment) Regulations, 1961. (S.I. 1961 No. 138.) 5d.

Personal Injuries (Civilians) (Amendment) Scheme, 1961. (S.I. 1961 No. 99.) 6d.

Road Traffic Act, 1956 (Commencement No. 11) Order, 1961. (S.I. 1961 No. 148 (C.1).) 4d.

Sovereign Base Areas of Akrotiri and Dhekelia (Appeals to Privy Council) Order in Council, 1961. (S.I. 1961 No. 59.) 8d.

Stopping up of Highways Orders, 1961 :—

County of Chester (No. 1). (S.I. 1961 No. 119.) 5d.

County of Derby (No. 1). (S.I. 1961 No. 154.) 5d.

County of Durham (No. 1). (S.I. 1961 No. 131.) 5d.

County of Gloucester (No. 1). (S.I. 1961 No. 106.) 5d.

County of Lancaster (No. 2). (S.I. 1961 No. 104.) 5d.

County of Leicester (No. 1). (S.I. 1961 No. 109.) 5d.

London (No. 3). (S.I. 1961 No. 120.) 5d.

County of Northampton (No. 2). (S.I. 1961 No. 155.) 5d.

County of Oxford (No. 4). (S.I. 1961 No. 107.) 5d.

County of Oxford (No. 5). (S.I. 1961 No. 121.) 5d.

County of Somerset (No. 1). (S.I. 1961 No. 108.) 5d.

County of Surrey (No. 1). (S.I. 1961 No. 122.) 5d.

County of York, North Riding (No. 1). (S.I. 1961 No. 105.) 5d.

Teachers Superannuation Amending Rules, 1961. (S.I. 1961 No. 158.) 5d.

Trade Marks (Amendment) Rules, 1961. (S.I. 1961 No. 127.) 5d. See p. 135, *post*.

Tribunals and Inquiries (Air Operators' Certificates) Order, 1961. (S.I. 1961 No. 153.) 4d. See p. 127, *ante*.

Tribunals and Inquiries (Revenue Tribunals) Order, 1961. (S.I. 1961 No. 152.) 4d. See p. 135, *post*.

Wages Regulation (Dressmaking and Women's Light Clothing) (Scotland) Order, 1961. (S.I. 1961 No. 159.) 8d.

Wages Regulation (Linen and Cotton Handkerchief, etc.) Order, 1961. (S.I. 1961 No. 160.) 6d.

Wages Regulation (Milk Distributive) (Scotland) Order, 1961. (S.I. 1961 No. 118.) 8d.

SELECTED APPOINTED DAYS

January

28th Trade Marks (Amendment) Rules, 1961. (S.I. 1961 No. 127.)

February

1st Tribunals and Inquiries (Air Operators' Certificates) Order, 1961. (S.I. 1961 No. 153.)
Tribunals and Inquiries (Revenue Tribunals) Order, 1961. (S.I. 1961 No. 152.)

15th Wages Regulation (Linen and Cotton Handkerchief, etc.) Order, 1961. (S.I. 1961 No. 160.)

16th British Nationality (Cyprus) Order, 1960. (S.I. 1960 No. 2215.)

POINTS IN PRACTICE

Questions, which can only be accepted from practising solicitors who are subscribers either directly or through a newsagent, should be addressed to the "Points in Practice" Department, The Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. They should be brief, typewritten in duplicate, and accompanied by the name and address of the sender on a separate sheet, together with a stamped addressed envelope. Responsibility cannot be accepted for the return of documents submitted, and no undertaking can be given to reply by any particular date or at all

Estate Duty—Bond in Joint Names

Q. *A*, solely from his own resources, purchased a bond value £*x* in the joint names of himself and his wife, *B*. On either death the balance would accrue to the survivor. The income from the bond was used for joint household expenditure. *A* has died and estate duty is being claimed on the whole bond, though the purchase was made some eight years ago. Do you consider that duty is properly payable on the whole? If so, can *A*'s executors reclaim the duty on the whole bond from *B* or can they only claim from her the duty applicable to half the value of the bond? To avoid a similar claim arising in the future on existing joint accounts, do you consider it could effectively be done by the husband mandating the interest equally between himself and his wife, viz., separate cheques to be paid to each of them for half the interest, in which case each would receive and enjoy a severed share of the income? Or is the most effective way for the husband to place half the security into the wife's name at the present time? Either course, to be effective, it is assumed, would be subject to the husband surviving for the statutory period of five years.

A. The deceased caused property to be transferred into the joint names of himself and another on terms that some part of the beneficial interest in that property passed or accrued by survivorship on his death. That being so, the Finance Act, 1894, s. 2 (1) (*c*), incorporating the Customs and Inland Revenue Act, 1881, s. 38 (2) (*b*), charges the whole of the property with estate duty. The deceased was until the date of his death competent to dispose of one-half of the property, which he could have done by severing the joint tenancy, thus making himself a tenant in common of that half. Therefore, by the Finance Act, 1894, s. 8 (3), the deceased's personal representatives are accountable for the duty upon that half of the property, but it would not appear that they are accountable for the duty upon the other half of the property, for which the Commissioners of Inland Revenue must, by s. 8 (4), look to the surviving joint tenant. For the future, we have no doubt that the best and simplest procedure is to have nothing to do with joint accounts but to split the security: one-half being retained in the name of the donor and one-half being transferred into the name of the donee. If it is desired to retain a joint account we think it best to make it clear by contemporaneous evidence that the donor and donee are to enjoy the property as tenants in common and not as joint tenants, and for the interest to be mandated in the manner you suggest.

Solicitor—Whether Vendor's Solicitor's Duty to Disclose Act of Bankruptcy

Q. It is constantly being pointed out by the court that solicitors are officers of the court. Please, therefore, let us have your opinion as to whether a solicitor in preparing a contract for

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SOMERSET (*continued*)

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Yeovil and District.—PALMER, SNELL & CO., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. Tel. 25 and 1796. London Office: 130 Mount Street, W.1.

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Woodbridge and East Suffolk.—ARNOTT & CALVER, Auctioneers and Valuers. Est. 1870. Tel. 179.

SURREY

Addiscombe, Shirley, Croydon.—MILLER, WILKINS AND CO., Auctioneers, Surveyors and Valuers, 191 Lower Addiscombe Road. Tel. ADDiscombe 2233/4; and 142 Wickham Road, Shirley. Tel. ADDiscombe 4021.

Camberley.—GIDDY & GIDDY, Estate House, London Road. Tel. 1919.

Camberley (Hants and Berks Borders).—SADLER AND BAKER, Chartered Auctioneers and Estate Agents, 95 High Street. Est. 1880. Tel. 4331 (3 lines).

Caterham and District, Sanderstead to Purley.—J. C. O'BRIEN, Station Avenue, Caterham. Tel. 4255 and 348. Limpsfield Road, Sanderstead. Tel. 4426.

Cobham.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 47. Offices throughout West Surrey.

Coulsdon.—SINDEN, TOMKINS & KING, F.A.L.P.A., Valuers, Surveyors and Estate Agents, 26 Chipstead Valley Road. Tel. UPLands 0600.

Croydon.—BLAKE, SON & WILLIAMS. Est. 1798. Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 51 High Street, Croydon. CROydon 7155/6

Croydon, Addiscombe and Wallington.—BOWDITCH & GRANT. (Est. 1881). Surveyors, Valuers, Auctioneers, 103/105 George Street, Croydon. Tel. CRO 0138/9.

Croydon and District.—JOHN P. DICKINS & SONS, Surveyors, Valuers and Estate Agents. Est. 1882. 2 and 4 George Street, Croydon. CROydon 3128/9/30.

Croydon and London.—HAROLD WILLIAMS AND PARTNERS, Chartered Surveyors, Valuers, Chartered Auctioneers and Estate Agents, 80 High Street, Croydon. Tel. Croydon 1931. And at Temple Chambers, Temple Avenue, E.C.4. Tel. Ludgate Circus 9288.

Croydon and Sutton.—SAINT, SYMINGTON AND STEDMAN, Surveyors, Auctioneers and Valuers. 106 High Street, Croydon. Tel. CRO 2216/7. And at 6 Cheam Road, Sutton. Tel. VIG 7616/7.

Dorking.—ARNOLD & SON, Auctioneers & Surveyors, 171 High Street and branches. Est. 1855. Tel. 2201/2.

Dorking.—WHITE & SONS, 104 High Street. Agricultural and General Surveyors and Valuers. Tel. 3255.

Dorking & London.—PEARSON, COLE & SHORLAND, Auction and Estate Offices, Dorking. Tel. 3897/8. Surveyors, Valuers and Auctioneers; and at 2 Hans Road, S.W.3. Tel. Kensington 0066.

Dorking, Bookham and Effingham.—CUBITT AND WEST. Tel. Dorking 2212, Bookham 2744. Valuers, Surveyors, Estate Agents.

Dorking and Reigate.—A. R. & J. GASCOIGNE-PEES, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 258/260 High Street, Dorking. Tel. 4071/2. 6 Church Street, Reigate. Tel. 4422/3. And at Leatherhead and Epsom.

Epsom and Leatherhead.—A. R. & J. GASCOIGNE-PEES, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 21 High Street, Epsom. Tel. 4045/6. 4 Bridge Street, Leatherhead. Tel. 4133/4. And at Reigate and Dorking.

Esher.—EWBANK & CO., in association with Mann & Co. Est. 1891. Tel. 3537/8. Offices throughout West Surrey.

Esher.—W. J. BELL & SON, Chartered Surveyors, Valuers, Auctioneers and Estate Agents, 51 High Street. Tel. Esher 3551/2.

Ewell, Epsom, Leatherhead and adjoining areas.—DOUGLAS, F.A.L.P.A. 10 High Street, Epsom. Tel. 2362/4. (Four other offices.)

Ewell.—WILTSHIRES, Estate Agents, Surveyors, Auctioneers and Valuers, 55 High Street. Tel. Ewell 1665/6.

Farnham.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 4 Castle Street. Tel. 5274 (2 lines).

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SURREY (*continued*)

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Farnham.—WHITEHEAD & WHITEHEAD, amal. HEWETT & LEE, 32 South Street, (Tel. 6277).

Godalming.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, Estate Offices. Tel. 1722 (5 lines).

Guildford.—MANN & CO., Est. 1891, 22 Epsom Road. Tel. 62911/2. Offices throughout West Surrey.

Guildford.—MESSENGER, MORGAN & MAY, Chartered Surveyors, 8 Quarry Street. Tel. 2992/4.

Guildford.—WHITEHEAD & WHITEHEAD, amal. HEWETT & LEE, 144 High Street. (Tel. 2811/2).

Haslemere.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 20 High Street. Tel. 1207.

Haslemere and Hindhead.—CUBITT & WEST. Tel. Haslemere 2345/6/7, Hindhead 63. Valuers, Surveyors, Estate Agents.

Kingston.—A. G. BONSOR, STEVENS & CO., Est. 1899, 82 Eden Street. Tel. KIN 0022.

Kingston.—NIGHTINGALE, PAGE & BENNETT, Est. 1825, Chartered Surveyors, 18 Eden Street. Tel. KIN 3356.

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Mitcham.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, Upper Green. Tel. MITcham 6101/2.

Oxshott.—W. J. BELL & SON, Chartered Surveyors, Valuers, Auctioneers and Estate Agents, 51 High Street, Esher. Tel. Esher 4331 (2 lines).

Redhill and Merstham.—E. H. BENNETT & PARTNERS, Auctioneers and Valuers. Tel. Redhill 3672. Merstham 2234/5.

Reigate.—MARTEN & CARNABY, Surveyors, Auctioneers and Valuers, 23 Church Street. Tel. 3361/2.

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Surbiton.—E. W. Wallaker & CO., F.A.L.P.A., Surveyors, Valuers, Auctioneers and Estate Agents, 56/7 Victoria Road, Surbiton, Surrey. Tel. Elmbridge 5381/4, and at Chessington, Surrey, Shoreham-by-Sea and Lancing, Sussex. (Chartered Surveyor D. J. Peachey, F.R.I.C.S.)

Sutton.—DOUGLAS GRAHAM & CO., Estate Agents, Property Managers, 269 High Street. Tel. VIG 0026/7/8. And at Thornton Heath, Norbury and Piccadilly, W.1.

Sutton.—IDRIS JONES & PARTNERS, F.R.I.C.S., F.A.I., 22 The Arcade, Sutton. VIGilant 0182; and at 30 Abbey House, Westminster.

Thornton Heath.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, 781 London Road. Tel. THO 6211/2.

Thornton Heath.—DOUGLAS GRAHAM & CO., Estate Agents and Property Managers, 808 London Road. Tel. THO 3888 (4 lines). And at Norbury, Sutton and Piccadilly, W.1.

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Walton/Weybridge.—WARING & CO. Est. 1890. Surveyors, Estate Agents, Auctioneers and Valuers. Tel. Walton-on-Thames 24151/2.

West Byfleet.—MANN & CO., incorporating Ewbank and Co., Est. 1891. Tel. 3288/9. Offices throughout West Surrey.

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(*continued on p. xx*)

SURREY (*continued*)

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Bexhill-on-Sea.—JOHN BRAY & SONS (Est. 1864), Estate Agents, Auctioneers and Valuers, 1 Devonshire Square. Tel. 14.

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Brighton.—MELLOR & MELLOR, Chartered Auctioneers and Estate Agents, 110 St. James's Street. Tel. 682910.

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Brighton and Hove.—WILLIAM WILLETT, LTD., Auctioneers and Estate Agents, 52 Church Road, Hove. Tel. Hove 34055. London Office, Sloane Square, S.W.1. Tel. Sloane 8141.

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Crawley.—WM. WOOD, SON & GARDNER, Estate Agents, Surveyors and Valuers. Tel. Crawley 1.

Crowborough.—DONALD BEALE & CO., Auctioneers, Surveyors and Valuers. The Broadway. Tel. Crowborough 3333.

Eastbourne.—FRANK H. BUDD, LTD., Auctioneers, Surveyors, Valuers, 1 Bolton Road. Tel. 1860.

Eastbourne.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 12 Gildredge Road. Tel. Eastbourne 1285.

Eastbourne.—HEFFORD & HOLMES, F.A.I., Chartered Auctioneers and Estate Agents, 51 Gildredge Road, Tel. Eastbourne 7840.

Eastbourne.—OAKDEN & CO., Estate Agents, Auctioneers and Valuers, 24 Cornfield Road. Est. 1897. Tel. 1234/5.

Eastbourne and District.—FARNHAM & CO., Auctioneers, Estate Agents and Valuers, 6 Terminus Road, Eastbourne. Tel. 4433/4/5. Branch at 87 Eastbourne Road, Lower Willingdon, and 4 Grand Parade, Polegate.

East Grinstead.—Messrs. P. J. MAY (P. J. May and A. L. Apthorp, F.R.I.C.S., F.A.I., M.R.San.I.), 2 London Road. Tel. East Grinstead 315/6.

East Grinstead.—TURNER, RUDGE & TURNER Chartered Surveyors. Tel. East Grinstead 700/1.

Hassocks and Mid-Sussex.—AYLING & STRUDWICK Chartered Surveyors. Tel. Hassocks 882/3.

Hastings, St. Leonards and East Sussex.—DYER & OVERTON (H. B. Dyer, D.S.O., F.R.I.C.S., F.A.I.; F. R. Hynard, F.R.I.C.S.), Consultant Chartered Surveyors. Estd. 1892. 6-7 Havelock Road, Hastings, Tel. 5661 (3 lines).

Hastings, St. Leonards and East Sussex.—WEST (Godrey, F.R.I.C.S., F.A.I.) & HICKMAN, Surveyors and Valuers, 50 Havelock Road, Hastings. Tel. 6688/9.

Haywards Heath and District.—DAY & SONS, Auctioneers and Surveyors, 115 South Road. Tel. 1580. And at Brighton and Hove.

Haywards Heath and Mid-Sussex.—BRADLEY AND VAUGHAN, Chartered Auctioneers and Estate Agents. Tel. 91.

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Horsham.—WELLER & CO., Surveyors, Auctioneers, Valuers, Estate Agents. Tel. Horsham 3311. And at Guildford, Cranleigh and Henfield.

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Sussex and Adjoining Counties.—JARVIS & CO., Haywards Heath. Tel. 700 (3 lines).
West Worthing and Goring-by-Sea.—GLOVER & CARTER, F.A.L.P.A., 110 George V Avenue, West Worthing. Tel. 8686/7. And at 6 Montague Place, Worthing. Tel. 6264/5.
Worthing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.
Worthing.—EYDMANN, STREET & BRIDGE (Est. 1864), 14 Chapel Road. Tel. 4060.
Worthing.—HAWKER & CO., Chartered Surveyors, Chapel Road, Worthing. Tel. Worthing 1136 and 1137.
Worthing.—PATCHING & CO., Est. over a century. Tel. 5000. 5 Chapel Road.
Worthing.—JOHN D. SYMONDS & CO., Chartered Surveyors, Revenue Buildings, Chapel Road. Tel. Worthing 623/4.

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Rugby and District.—WIGGINS & RUSSELL, Auctioneers, etc., 14 Regent Place, Rugby (Tel. 2548).
Sutton Coldfield.—QUANTRILL SMITH & CO., 4 and 6 High Street. Tel. SUT 4481 (5 lines).

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Windermere.—PROCTER & BIRKBECK (Est. 1841), Auctioneers, Lake Road. Tel. 688.

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Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903). Surveyors, Auctioneers and Estate Agents. Special Probate Department. New Bond Street Chambers. 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.
Marlborough Area (Wilts, Berks and Hants Borders). JOHN GERMAN & SON (Est. 1840), Land Agents, Surveyors, Auctioneers and Valuers, Estate Offices, Ramsbury, Nr. Marlborough. Tel. Ramsbury 361/2, And at Ashby-de-la-Zouch, Burton-on-Trent and Derby.

WORCESTERSHIRE

Kidderminster.—CATTELL & YOUNG, 31 Worcester Street. Tel. 3075 and 3077. And also at Droitwich Spa and Tenbury Wells.
Kidderminster, Droitwich, Worcester.—G. HERBERT BANKS, 28 Worcester Street, Kidderminster. Tels. 2911/2 and 4210. The Estate Office, Droitwich. Tels. 2084/5. 3 Shaw Street, Worcester. Tels. 27785/6.
Worcester.—BENTLEY, HOBBS & MYTTON, F.A.I., Chartered Auctioneers, etc., 49 Foregate Street, Tel. 5194/5.

YORKSHIRE

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Leeds.—SPENCER, SON & GILPIN, Chartered Surveyor, 2 Wormald Row, Leeds, 2. Tel. 3-0171/2.
Scarborough.—EDWARD HARLAND & SONS, 4 Aberdeen Walk, Scarborough. Tel. 834.
Sheffield.—HENRY SPENCER & SONS, Auctioneers, 4 Paradise Street, Sheffield. Tel. 25206. And at 20 The Square, Retford, Notts. Tel. 531/2. And 91 Bridge Street, Worksop. Tel. 2654.

SOUTH WALES

Cardiff.—DONALD ANSTEE & CO., Chartered Surveyors, Auctioneers and Estate Agents, 91 St. Mary Street, Tel. 30429.
Cardiff.—S. HERN & CRABTREE, Auctioneers and Valuers. Established over a century. 93 St. Mary Street. Tel. 29383.
Cardiff.—J. T. SAUNDERS & SON, Chartered Auctioneers & Estate Agents. Est. 1895. 16 Dumfries Place, Cardiff. Tel. 20234/5, and Windsor Chambers, Penarth. Tel. 22.
Cardiff.—JNO. OLIVER WATKINS & FRANCIS, Chartered Auctioneers, Chartered Surveyors, 11 Dumfries Place. Tel. 33489/90.
Swansea.—E. NOEL HUSBANDS, F.A.I., 139 Walter Road. Tel. 57801.
Swansea.—ASTLEY SAMUEL, LEEDER & SON (Est. 1863), Chartered Surveyors, Estate Agents and Auctioneers, 49 Mansel Street, Swansea. Tel. 55891 (4 lines).

NORTH WALES

Denbighshire and Flintshire.—HARPER WEBB & CO., (incorporating W. H. Nightingale & Son), Chartered Surveyors, 35 White Friars, Chester. Tel. 20685.
Wrexham, North Wales and Border Counties.—A. KENT JONES & CO., F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. The Estate Offices, 43 Regent Street, Wrexham. Tel. 3483/4.

sale of land for a vendor who has committed an available act of bankruptcy is entitled to abstain from mentioning that fact in such contract, although a vendor's solicitor is required to describe all material facts relating to the title to the land. There is a danger that a receiving order may be made before the sale is completed, to the detriment of the purchaser.

A. We do not think that a vendor's solicitor is under any duty to disclose the act of bankruptcy unless the vendor instructs him to do so. An act of bankruptcy does not itself invalidate the vendor's title. It is true that adjudication may follow, in which case the title of the trustee will relate back to the first available act of bankruptcy. Nevertheless, no bankruptcy proceedings may be taken or, alternatively, the purchase may be carried out before the making of a receiving order and without the purchaser having notice of an available act, so that the purchaser is protected by the Bankruptcy Act, 1914, s. 45. In our opinion a duty as officer of the court does not arise in such circumstances.

NOTES AND NEWS

TRADE MARKS FEES

The Trade Marks (Amendment) Rules, 1961 (S.I. 1961 No. 127), which came into operation on 28th January, amend the Trade Marks Rules, 1938 to 1959, by (1) increasing fees payable in respect of applications, registrations and renewals; (2) requiring payment of the increased renewal fee even where the fee is paid on or before 1st May, 1961, if the renewal could be effected after 1st May, 1961, without extension of time.

REVENUE TRIBUNALS

The Tribunals and Inquiries (Revenue Tribunals) Order, 1961 (S.I. 1961 No. 152), which came into operation on 1st February, has the effect of requiring the Special Commissioners of Income Tax to furnish a statement of the reasons for their decision, if so requested, in any case in which a re-hearing by the tribunal constituted for the purposes of s. 28 of the Finance Act, 1960, may be required, while excluding that tribunal from the obligation to furnish a statement of reasons.

THE SOLICITORS ACT, 1957

ROBERT DAVID MAINWARING, of 8 Chesham Street, London, S.W.1, solicitor, having, in accordance with the provisions of the Solicitors Act, 1957, made application to the Disciplinary Committee constituted under the Act that his name might be removed from the Roll of Solicitors at his own instance on the ground that he desires in due course to be called to the Bar, an order was, on the 19th January, 1961, made by the Committee that the application of the said Robert David Mainwaring be acceded to and that his name be removed accordingly from the Roll of Solicitors of the Supreme Court.

RECORD DAMAGES AWARDED

The highest damages ever given by an English court for injuries in a road crash, a total of £25,000, were awarded on 1st February in a case before Barry, J. The claimant came into collision with a car while riding his bicycle and received brain injuries. On 3rd February at Oxford Assizes Finnemore, J., awarded £18,279 damages to a girl who has been unconscious since May, 1958, after being injured in a collision between two cars, in one of which she was a passenger.

PEDESTRIANS' RIGHTS FORMULATED

The Pedestrians' Association for Road Safety have compiled a nine-page document, under the title "A Pedestrian's Bill of Rights," setting forth the measures that they consider necessary to establish safety standards on the roads and to maintain the reasonable rights of pedestrians in their use of them.

Personal Notes

Dr. WILLIAM GEORGE, of Criccieth, brother of the late Earl Lloyd-George, received the congratulations of The Law Society on 30th January on becoming the oldest practising solicitor in Great Britain. Dr. George, who is 97 this month, qualified with first class honours in 1887.

Mr. FRANK HILL, Town Clerk of Gillingham, Kent, has resigned for reasons of health.

RESTRICTIVE TRADING AGREEMENTS

The Report of the Registrar of Restrictive Trading Agreements for the period 7th August, 1956, to 31st December, 1959 (Cmnd. 1273, H.M.S.O., 1s. 9d.), gives an account of the carrying out of his duties. These consist of preparing, compiling and maintaining a register of agreements which are subject to registration under the Restrictive Trade Practices Act, 1956, and of taking proceedings before the Restrictive Practices Court in respect of the agreements. At the end of 1959 the public section of the register contained particulars of 2,240 agreements still in operation or determined. From the opening of the register until the end of that year the determination of almost 300 agreements, and the variation of a further 320 agreements to remove all relevant restrictions, had been registered. Over 2,000 other variations had been incorporated in the register. A summary of the position at the end of 1959 shows that the parties to 490 agreements had been advised of the Registrar's intention to start proceedings and that 320 of these agreements had been abandoned before the issue of a notice of reference. Notices of reference had been issued in 93 cases and 43 of these had come before the court, only 9 of them having been defended. There remained some 120 cases at all stages of preparation between the initial approach and a court hearing.

Wills and Bequests

Mr. REGINALD CURTIS-HAYWARD, retired solicitor, of Corsham, Wiltshire, left £31,763 net.

Mr. ALFRED ERNEST GREAVES, solicitor, of Wakefield, left £179,632 net. He directed his trustees, as soon as possible after his death, to afford an opportunity for a representative of Wakefield City Art Gallery and Museum to inspect his household effects and pictures and to select such articles as may, in his opinion, be suitable for permanent exhibition in the art gallery or museum, and he left £200 to his trustees upon trust for the benefit of the village of Walton, £250 to the Provost and Churchwardens of Wakefield Cathedral, £250 to the Brotherton Charity Trust, Wakefield (Pensions for Old People), and £1,000 to the Deakin Institution, Sheffield.

Mr. JOHN OSWALD JOBSON, solicitor, of London, E.C.4, left £59,676 net. He left personal legacies, £100 each to the Solicitors' Benevolent Society and the Law Association, £1,000 to "my old school," Wilmer Grammar School, Camberwell, to be applied as the Old Wilamian members of the board of governors decide, and £100 to the Old Wilamians Association, £1,000 to "my college," Pembroke College, Cambridge, and after other charitable bequests, one-half of the residue for the benefit of such charities as his trustees select, and for any of the staff of his firm who may be in need, and one-half for the benefit of such missionary societies and other religious bodies as his trustees select.

Mr. WALTER EDWIN LESTER, retired solicitor, of Nuneaton, left £54,281 net.

Mr. WILLIAM TAYLOR PARKES, retired solicitor, formerly of London, W.1, left £40,340 net.

Mr. FRANK DEEKS SHARPLES, solicitor, of Liverpool. chairman of Allansons Stores, Ltd., Birkenhead, left (estate in Great Britain) £67,606 net.

Mr. HARRY HAMILTON SPEAKMAN, retired solicitor, of Upper Colwyn Bay, North Wales, formerly of Manchester, left £8,696 net.

SOCIETIES

The Isle of Wight Law Society held their annual dinner at Farringford, Freshwater, on 26th January and among the official guests were Mr. J. M. F. Peters, T.D., and Mr. C. G. A. Paris, President and Secretary respectively of the Hampshire Incorporated Law Society, with Mrs. Peters and Mrs. Paris, and Mr. E. P. Ward, President of the Bournemouth and District Law Society, with Mrs. Ward. Mr. R. W. Beasley, M.B.E., President of the Isle of Wight Law Society, presided. Mr. Peters proposed the toast of the Society and Mr. W. J. Eldridge, O.B.E., responded.

The Newcastle upon Tyne Incorporated Law Society's ninetieth annual general meeting, which was also the one hundred and thirty-fourth anniversary of its original institution as the Newcastle upon Tyne and Gateshead Law Society, was held in the Law Library, Pilgrim Street, Newcastle upon Tyne, on 12th January, and presided over by the President of the Society, Mr. R. L. Richmond, O.B.E. There were 55 members present. The following officers were elected for the ensuing year: President: Mr. J. Atkinson; Vice-President: Mr. G. Scott; Hon. Treasurer: Mr. S. G. March; Hon. Secretary: Mr. T. M. Harbottle; Hon. Librarian: Mr. P. S. Layne. Committee: Messrs. H. I. Bransom, R. R. Crute, D. H. Davies, P. B. Dodkins, H. C. Ferens, W. H. Gibson, R. H. C. Herron, T. T. Houlsby, J. E. Miller, R. J. Middlemas, R. L. Richmond and H. L. Swinburne. In the evening the annual dinner of the Society was held at the Old Assembly Rooms, Newcastle upon Tyne, when 400 members and guests sat down to dinner. Mr. Justice Havers and Mr. Justice Thesiger honoured the Society with their presence, the latter answering the toast of "The Bench and Bar," proposed by Mr. F. A. Waller. The toast of "The Guests," proposed by Mr. J. J. Neesham, was replied to by Mr. A. J. Driver, the Vice-President of The Law Society. There were also present the Chancellor of the Durham Palatine Court, Mr. Henry Salt, Q.C., their Honours Judges Cohen, Drabble and Harper and the presidents of other North East law societies and other professional bodies.

At the monthly meeting of the board of directors of the Solicitors Benevolent Association held on 25th January, Mr. John Duckett Floyd, B.A., of London, was elected a director of the Association. Forty-seven solicitors were admitted as members of the Association, bringing the total membership up to 9,115. Fifty-four applications for relief were considered and grants totalling £9,012 2s. 0d. were made, £172 of which was in respect of "special" grants for holidays, clothing, etc. Forms of application for membership and general information leaflets will be supplied on request to the Association's offices, Clifford's Inn, Fleet Street, London, E.C.4. The minimum annual subscription is £1 1s. 0d. and a donation of £21 constitutes life membership.

PRACTICE DIRECTION

PROBATE REGISTRAR'S DIRECTION

Notation of Domicile in Grant

The Non-Contentious Probate (Amendment) Rules, 1961, which come into force on the 1st March, 1961, amend r. 6 of the Non-Contentious Probate Rules, 1954, to permit a statement of the place where the deceased died domiciled to be included in the grant whenever the domicile is stated in the oath. In the absence of any special application such a statement of domicile will be included in the grant as a matter of routine if it is included in the oath. Where a country has no uniform system of law, the statement of domicile should specify the state, province or other judicial division of the country as heretofore.

B. Long,
Senior Registrar,
Principal Probate Registry.

24th January, 1961.

PRACTICE NOTE

NOTICE

Committal Orders

The practice of issuing the Lord Chancellor's warrant for the enforcement of a committal order made in the High Court will be discontinued. In future all such orders may be executed on the authority of a warrant signed by the judge, or one of the judges of the court making the order.

(Signed) Kilmuir, C.
(Signed) Parker of Waddington, C.J.
(Signed) Merriman, P.

30th January, 1961.

CASES REPORTED IN VOL. 105

"THE SOLICITORS' JOURNAL"

Editorial, Publishing and Advertising Offices: Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. Telephone: CHAncery 6855.

Annual Subscription: Inland £4 10s., Overseas £5 (payable yearly, half-yearly or quarterly in advance).

Classified Advertisements must be received by first post Wednesday.

Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).

Classified Advertisements

PUBLIC NOTICES—INFORMATION REQUIRED—CHANGE OF NAME
3s. per line as printed

APPOINTMENTS VACANT—APPOINTMENTS WANTED—PRACTICES AND PARTNERSHIPS and all other headings
12s. for 30 words. Additional lines 2s. Box Registration Fee 1s. 6d. extra

Advertisements should be received by first post Wednesday for inclusion in the issue of the same week and should be addressed to THE ADVERTISEMENT MANAGER, SOLICITORS' JOURNAL, OYEZ HOUSE, BREAMS BUILDINGS, FETTER LANE, E.C.4. CHAncery 6855

PUBLIC NOTICES

HARLOW URBAN DISTRICT COUNCIL

require a

LEGAL ASSISTANT

Applications are invited for the above appointment (Grade A.P.T. II, £815–£960 per annum).

Conveyancing experience essential, but previous local government service unnecessary.

Housing available and necessary removal expenses paid.

In addition to superannuation, the Council have Widow's Pension and Injury Allowance schemes. Good office conditions in a new Town Hall.

Applications, giving the names of two referees, to be received by the Clerk of the Council, Town Hall, Harlow, not later than first post, 16th February, 1961.

NEW SCOTLAND YARD

ASSISTANT PROSECUTING SOLICITORS on permanent staff of Solicitor's Department. Age 24–40. Salary on appointment £950 to £1,135 according to age. On confirmation £1,300 at age 30, rising to £1,850. Non-contributory pension. Candidates who have passed their final examination but have not yet been admitted will be considered. Particulars from Secretary, Room 165 (LA), New Scotland Yard, S.W.1.

HORSHAM URBAN DISTRICT COUNCIL

APPOINTMENT OF ASSISTANT SOLICITOR

Applications are invited for the above appointment. Salary within A.P.T. Grades III–IV (£960–£1,310) according to experience. Local Government experience not essential.

Housing accommodation if necessary.

Applications stating age, present appointment and experience, with names of two referees must reach me not later than 20th February, 1961.

S. ASHTON STRAY,
Clerk of the Council.

Council Offices,
Horsham Park,
Horsham,
Sussex.

ROYAL BOROUGH OF KINGSTON-UPON-THAMES

APPOINTMENT OF LAW CLERK

Applications are invited for the above appointment at a salary of £960 to £1,140 per annum, plus London Weighting.

A five day week is in operation.

Thorough knowledge and experience of conveyancing required. Local Government experience not essential.

The Council is unable to offer housing accommodation. Applications, stating age and experience and giving the names and addresses of two referees, should reach me not later than Friday, the 17th February, 1961. Canvassing disqualifies.

L. V. POWELL,
Town Clerk.

Guildhall,
Kingston-upon-Thames.

SOUTHBOROUGH URBAN DISTRICT COUNCIL

LEGAL ASSISTANT

Legal Assistant required in Clerk's Department; salary A.P.T. Grade II (£815–£960); commencing step according to experience. Usual conditions apply and housing accommodation offered. Applicants should have some experience in Conveyancing. Applications with names of two referees to the Clerk and Solicitor, Council Offices, Southborough, Tunbridge Wells, Kent by 28th February.

METROPOLITAN BOROUGH OF POPLAR

LEGAL ASSISTANT (SOLICITOR)

Applications are invited for this permanent appointment from solicitors of at least two years' standing. Salary within Grade A.P.T. V (£1,310–£1,480 per annum, plus £45 per annum London "weighting") of the National Scheme for Local Authorities' Administrative, Professional and Technical staffs. Commencing salary according to experience. Previous local government experience an advantage but not essential. Application forms and further particulars from the undersigned. Closing date 27th February, 1961.

S. A. HAMILTON,
Town Clerk.

HORNCHURCH URBAN DISTRICT COUNCIL

(Population 125,000)

APPOINTMENT OF ASSISTANT SOLICITOR

Applications are invited for the appointment of Assistant Solicitor at a salary within Grade "A" (£1,400 per annum × £55(3)–£1,565 per annum), commencing salary according to experience.

Local government expefience is desirable but not essential.

Assistance will be given with the provision of housing accommodation if necessary, and application for payment of reasonable removal expenses will be considered.

Applications, on forms obtainable from the undersigned, should be received by me not later than Wednesday, 1st March, 1961.

P. L. COX,
Clerk of the Council.

Council Offices,
Billet Lane,
Hornchurch,
Essex.

NEW APPOINTMENT

BOROUGH OF THORNABY-ON-TEES

DEPUTY TOWN CLERK

Applications are invited from Solicitors with Local Government experience for this new appointment at a salary of £1,480 p.a. (A.P.T. Grade V maximum).

Form of application may be obtained from me for return not later than 2nd March, 1961.

Housing accommodation available.

A. STOCKWELL,
Town Clerk.

Town Hall,
Thornaby-on-Tees.

COUNTY OF LINCOLN—PARTS OF KESTEVEN

ASSISTANT SOLICITOR

Applications are invited from Solicitors for the above appointment. Salary will be on J.N.C. Scale "B" (£1,430 × £60(4)–£1,670), commencing according to experience. Car allowance will be payable.

Further particulars and application forms may be obtained from the undersigned, to whom applications should be sent by Thursday, 23rd February, 1961.

J. E. BLOW,
Clerk of the County Council.

County Offices,
Sleaford,
Lincs.

LONDON COUNTY COUNCIL

LEGAL AND PARLIAMENTARY DEPARTMENT

Applications invited for :—

(1) ASSISTANT SOLICITORS (previous local government service not essential). £990–£1,250 according to qualifications and experience. Clear run to £1,500 for capable man or woman, with good prospects of further promotions to posts in excess of £2,000.

(2) LAW CLERKS. Men and women under 40 on 25th February, 1961, with several years' practical experience required. Up to £1,250 according to ability and experience. Promotion open to higher posts.

Permanent and pensionable. For particulars and forms, returnable by 25th February, write Solicitor, (S/S/359/2), County Hall, S.E.1, stating post to be applied for.

APPOINTMENTS VACANT

DICKENSIAN atmosphere banished by wind of change from old-established busy family practice (two youngish partners) in beautiful University City (non red-brick) which has opening for experienced qualified assistant under forty. Varied work with conveyancing predominating in pleasant surroundings. Generous salary. Academic distinctions secondary to and of less importance than dynamic personality and a love of toil, which attributes can yield partnership prospects.—Write Box 7890, Williams's Advertisement Offices, Bradford.

CONVEYANCING Managing Clerk required by West End firm to manage substantial and expanding department dealing with Estate Development (with some general conveyancing); good commencing salary according to experience with fixed periodic review; pension scheme, Luncheon Vouchers, no Saturdays.—Box 7412, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

NOTTINGHAM.—Solicitors require young qualified Solicitor as personal assistant to Senior Partner in old-established and busy practice. Good salary according to age and experience.—Box 7406, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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Classified Advertisements

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APPOINTMENTS VACANT—*continued*

T. V. EDWARDS & CO., Dorland House, 18–20 Regent Street, London, S.W.1, require Assistant Solicitor for general practice. Telephone: WHItehall 2232.

CONVEYANCER, admitted or unadmitted, to run own Department in medium-sized West End office; mainly estate development; suitable for young man interested practical administration as well as Conveyancing. Salary about £1,200 per annum.—Apply Mr. Seigal, Langham 3303.

SOLICITORS in Brighton require Solicitor immediately to take charge of office in absence of principal. The post is a permanent post leading to a partnership.—Box 7407, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST END Solicitors seek an admitted assistant with sound experience of general practice. Good salaried partnership offered with prospects of full partnership. Loyalty and ability rewarded. Please write with full particulars.—Box 7408, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

HARROW AREA.—Assistant Solicitor required for General Practice but mainly conveyancing. Salary dependent on age and experience. Partnership prospects.—Box 7410, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BERKSHIRE.—Newly qualified solicitor required as assistant in small general practice in busy market town.—Box 7348, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EASTERN ELECTRICITY BOARD

LAW CLERK—AREA BOARD HEADQUARTERS
16/61.R.

Applications are invited from Law Clerks, with experience in conveyancing, for an appointment in the Secretary's Office.

The salary will be in accordance with Grade 4 (£890–£1,010) of the National Joint Council Salary Agreement commencing at a point dependent upon the applicant's ability and experience. Future salary and conditions of service will be in accordance with agreements made from time to time by the appropriate negotiating bodies.

The successful candidate will be required to contribute to a superannuation scheme and may be required to undergo a medical examination.

Apply by letter stating age, education, qualifications and experience, with details of present appointment to the Secretary, Eastern Electricity Board, P.O. Box 40, Wherstead, Ipswich, Suffolk, by 20th February, 1961.

BOOTS PURE DRUG COMPANY, LTD. Conveyancing Applications are invited for an unadmitted Conveyancing Assistant with the Estates Department of Boots Pure Drug Co., Ltd., Nottingham.

The Department is responsible for all the Company's property dealings including conveyancing which is undertaken under the control of a solicitor.

Candidates should be aged between 25 and 35 years and have had experience of conveyancing matters.

The Company operates a contributory pension scheme, profit earning bonuses and a 5-day week. Applicants should write giving full details of age, education and experience to the Personnel Manager, Boots Pure Drug Company, Ltd., Station Street, Nottingham, quoting reference No. S.O.J.1.

LONDON.—An Assistant Solicitor, age under 35, required in the Legal Department of a progressive Life Office to deal mainly with conveyancing and company matters. Commencing salary up to £1,500 dependent on age and experience. Widow's Pension and Non-contributory Retirement Pension Schemes in operation. Excellent early prospects for the right applicant.—Box 7426, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR TO LEADING FINANCE HOUSE

requires

JUNIOR LITIGATION CLERK

with good experience of Debt Collection in the County Court. This position affords excellent opportunities to the successful applicant who must be conscientious and keen to advance his knowledge of Commercial Law.

Please apply to:

Personnel Department (ref: 13/218)

TRICITY FINANCE CORPORATION, LIMITED
Great Cambridge Road,
Enfield, Middlesex.

SOUTHAMPTON. — Assistant Solicitor required. General practice—common law and some advocacy. Good salary and prospects. Full particulars of experience.—JASPER & NICHOLSON, 35 Carlton Crescent, Southampton.

YOUNG solicitor required to organize new practice in London by solicitor with business interests and not actively practising. Excellent opportunity for someone with energy and ambition. Some conveyancing knowledge essential. Write stating age, qualifications, experience and present remuneration.—Box 7413, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WANTED by Gosport solicitors experienced litigation and common law clerk (unadmitted) in busy department of large and expanding practise. Must be fully experienced in all branches of common law, accident claims, divorce, criminal matters, practice of the courts and general litigation. Good salary for the right man.—Box 7414, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASISTANT Solicitor (under 30) required by progressive firm in West Midlands County Town. Some advocacy but previous experience not essential. Prospects. Salary £1,250.—Box 7428, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

NATIONAL COAL BOARD

Durham Division

CONVEYANCING CLERKS

Applications are invited from unadmitted or admitted men for permanent and temporary posts in the Legal Department. Commencing salary will be between £935 and £1,000; maximum will depend on qualifications and experience. A Superannuation Scheme (with possibility of transfer from existing schemes in certain cases) is in operation. Applicants must have wide experience of conveyancing work and require little supervision.

Apply within seven days quoting SG/240/9 (60) giving details of age, education, qualifications and experience to: Divisional Chief Staff Officer, N.C.B., Team Valley Trading Estate, Gateshead, 11.

YOUNG Managing Clerk required to take over Branch Office, under supervision, in riverside town West Middlesex. Mainly conveyancing. Age 25 to 30 preferred. Salary, etc., by arrangement. Good opportunity for keen man or woman in expanding practice.—Apply Box 7427, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

REQUIRED for Insurance Brokers in West London. Litigation Clerk preferably with some experience of Motor Claims to take charge of Claims Department. Excellent opportunity and progressive position for person with initiative. Excellent Pension Scheme. Apply in writing giving full details.—The Secretary, B. W. Hunt, Ltd., 52, Victoria Road, Ruislip, Middx.

SENIOR Managing Clerk required by City solicitors (two partners), as Personal Assistant to Partner engaged mainly on Conveyancing and Mortgage work. Progressive firm with rapidly expanding practice. First-class salary and excellent prospects offered to right man. Holiday arrangements honoured. Modern offices and congenial working conditions.—Box 7429, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

NORTH-WEST, Lancashire, Cheshire, preferred; young solicitor, public school, University educated, LL.B., 2nd class hons., sound conveyancing property experience, succession, family law and general practice, seeks permanent position with prospects.—Box 7433, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WILKINSON, Howlett & Moorhouse have vacancy for assistant to Litigation Manager, please apply in writing to 14 Bedford Street, Strand, W.C.2, or Tel. TEM 6932.

YOUNG newly qualified solicitor or conveyancing Clerk. Tired of fighting your way on to stuffy, rush-hour packed trains? Why not work in sunny Willesden, congenial working conditions, non-U atmosphere. Salary by arbitration.—Box 7415, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Managing Clerk (unadmitted), aged between 30 and 40, required by old established and expanding City firm. Good prospects. Salary by arrangement.—Box 7416, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST Sussex Solicitors require conveyancing and probate managing clerk or assistant solicitor capable of working with slight supervision. Salary £850 to £1,000 according to experience.—Box 7417, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WATFORD, Herts.—Assistant Solicitor required in busy office. Conveyancing and general—some litigation. Good prospects.—Box 7418, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT (preferably qualified) with good all round experience. Salary by arrangement partnership prospects for admitted man.—H. S. Turner, 18 The Terrace, London Road, Spalding, Lincs.

CONVEYANCING and Probate Assistant (admitted or unadmitted) required. Please state experience. Salary up to £1,200 per annum for the right person.—Charles & Co., 54A Woodgrange Road, Forest Gate, London, E.7. MARyland 6167.

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Classified Advertisements

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APPOINTMENTS VACANT—*continued*

PROBATE managing clerk required (male or female) by South London Solicitors; own office; minimum supervision or as required; Stenorette system; 3 weeks' vacation; salary according to experience.—Box 7320, Solicitors' Journal, Oyez House Breams Buildings, Fetter Lane, E.C.4.

ROCHESTER, Kent.—Solicitor or unadmitted clerk required to take charge of busy litigation department. Salary from £800 to £1,300 according to experience. Pension scheme for unadmitted clerks. Good partnership prospects for Admitted Solicitor.—Box 7419, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

APPOINTMENTS WANTED

CONVEYANCING Managing Clerk (unadmitted), age 51, active, seeks appointment. 37 years' experience, excellent references. Dorking, Leatherhead, Reigate or Redhill districts preferred.—Box 7390, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (50), admitted 1934, living in Sussex coast town, desires Conveyancing appointment in Solicitors office. City of London, S.W.1, or Brighton district preferred. Salary required £1,000 p.a. approx. Can start February 6th. Good experience. Keen and hard worker. Might consider temporary post if not less than 3 months.—Box 7377, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

YOUNG Solicitor, 12 months' general experience, seeks position in Cardiff or Mid-Wales.—Box 7431, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SENIOR Conveyancing Clerk (40, unadmitted) active, seeks appointment as Managing Clerk (not London or South Coast) knowledge of other matters, including insurance, income tax, debt collections and probate housing assistance would be helpful, salary by arrangement.—Box 7420, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITORS' Managing Clerk in consequence of amalgamation seeks more satisfying appointment in London; 35 years' experience, mainly Probate and Conveyancing, but knowledge of all aspects connected with a Solicitor's office. Salary by arrangement.—Box 7435, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (43), ex-regular officer with three years' practical experience in Solicitors profession mainly in Common Law and litigation, seeks position with view to partnership, limited capital available, London or home counties preferred, but not essential.—Box 7422, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR, 34, on Conveyancing side with bias towards wills, settlements, estate duty, income tax, pensions, etc., seeks post in Central London (not necessarily in private practice). Good draftsman. Four figure salary by arrangement.—Box 7421, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (30), Public School, LL.B., with five years' experience in Brighton general practice, including advocacy, seeks post leading to partnership after probationary period. Sussex, particularly Brighton, preferred.—Box 7432, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

(VOLUNTARILY Disbarred) Barrister seeks engagement with high-class firm.—Box 7434, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PRACTICES AND PARTNERSHIPS

SOLICITORS with excellent West End accommodation (Oxford Street) having general practice invite suggestions from Solicitor with own practice with a view to amalgamation or sharing to reduce overhead expenses.—Please write with full particulars in confidence to Box 7409, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (32), LL.B., admitted 6 years, last 4 years sole charge suburban branch office, experience general but particularly conveyancing, seeks partnership after probationary period in London area.—Box 7423, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EXPERIENCED practitioner, sole principal of progressive expanding firm with capable staff, wishes to acquire old-established small or medium-sized practice where principal proposes to retire. East Devon or West Somerset area preferred. Amalgamation considered.—Box 7430, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PREMISES, OFFICES, ETC.

CHARTERED Accountant, London, E.C.4, Cannon St. area, has suite of two rooms with separate entrance available. Newly decorated offices with good natural light. Reception and typing facilities.—Box 7397, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CITY Accountants have second floor room and/or services to let near Mansion House, London. Lift. Apply The Principal.—Telephone Central 0039 or Box 7424, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ACCOUNTANTS (at present in Holborn) require two well-lighted offices preferably in West End.—Box 7425, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PROPERTY INVESTMENTS

INVESTMENTS REQUIRED

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Will any Solicitor or other person having knowledge of any Will made by the abovenamed, late of 86 Petty France, London, S.W.1, who died on the 14th January, 1961, please communicate with Messrs. Kersey, Tempest & Latter, 15 Tower Street, Ipswich.

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Published Weekly, 1s. 9d. Friday, February 10, 1961 Registered at the G.P.O. as a newspaper